

EXHIBIT D

Court Reporter's Transcript of
the Termination Hearing

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DOCKET NO.: 034-LH-01-2016

TROUP INDEPENDENT)	BEFORE CHRISTOPHER D. FREEMAN
SCHOOL DISTRICT,)	
)	
Vs.)	CERTIFIED HEARING EXAMINER
)	
DENNIS ALEXANDER,)	TEXAS EDUCATION AGENCY

REPORTER'S RECORD
HEARING ON TERMINATION
VOLUME 1 OF 1
FEBRUARY 29, 2016

BE IT REMEMBERED THAT on the 29th day of February, 2016, the above styled and numbered cause came on for hearing before the Certified Hearing Examiner, Mr. Christopher D. Freeman, in the Troup Independent School District Administration Building, located at 201 Carolina Street, Troup, Texas, before Terri Lynn Smith, CSR in and for the State of Texas, reported by computerized stenotype machine, pursuant to the Texas Rules of Civil Procedure and the provisions stated on the record or attached hereto, and the following proceedings were had, to wit:

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PROCEEDINGS

INDEPENDENT HEARING EXAMINER: Here we'll call Docket No. 034-LH-01-2016. Parties please state your name and appearances.

MR. JOHN C. HARDY: John C. Hardy on behalf of Troup Independent School District, attorney. Sitting to my right is Mr. Stuart Bird, superintendent of Troup ISD, and to my left is John M. Hardy, attorney in my office.

MR. ADKISON: Ron Adkison, your Honor. I represent Dennis Alexander. This is Coach Alexander sitting to my right.

INDEPENDENT HEARING EXAMINER: Okay. The attorneys have invoked the Rule. Let me ask everyone who's -- who's sitting in the room, if -- if you know or expect to be called as a witness in this case, will you raise your hand, please?

Okay. Let me get you guys -- you folks to go ahead and stand up and let me ask counsel if -- if you see -- if either of y'all see anyone in the room who is not standing up who you expect to be witnesses in this matter other than those seated at counsel table.

MR. ADKISON: I do not.

MR. JOHN C. HARDY: None from me.

INDEPENDENT HEARING EXAMINER: Okay. All

1 of you who are standing up -- first, let me get your
2 names.

3 MR. ADAMS: Walker Adams.

4 INDEPENDENT HEARING EXAMINER: Okay.

5 MR. GRAY: Joey Gray.

6 MR. WILLIAMS: Kyle Williams.

7 MR. CABE: Leonard Cabe, C-a-b-e.

8 INDEPENDENT HEARING EXAMINER: Pink
9 shirt.

10 MR. MITCH ADAMS: Mitch Adams.

11 MR. MATT ADAMS: Matt Adams.

12 MR. DAVIS: Patrick Davis.

13 INDEPENDENT HEARING EXAMINER: Okay.

14 MR. GREER: Astin Greer.

15 INDEPENDENT HEARING EXAMINER: Spell your
16 last name for me.

17 MR. GREER: Greer, G-r-e-e-r.

18 INDEPENDENT HEARING EXAMINER: Okay. For
19 all of you standing, the attorneys have invoked the
20 Rule, which means that in just a minute, I'm going to
21 swear you in as witnesses and then I'm going to ask you
22 to step out, and you will not be permitted to sit in the
23 hearing and listen to other testimony in this case.

24 Okay. I also need to admonish you that
25 you're not to discuss the case when you're -- when

1 you're out of the hearing room with -- with each other,
2 with anyone else. And after you've testified, you're
3 not to discuss your testimony and the testimony that you
4 gave with anyone else. Does anybody have any questions
5 about that?

6 Okay. We've another one standing. Tell
7 me --

8 MR. ADKISON: Well, there's two others
9 that -- that may be relevant on an issue.

10 INDEPENDENT HEARING EXAMINER: Okay.
11 Tell me your name, ma'am.

12 MS. DARDEN: Frankie Darden.

13 MR. DARDEN: Nelson Darden.

14 INDEPENDENT HEARING EXAMINER: Okay.
15 Going back to what I said, does anybody have any
16 questions about that admonishment that I've given you?
17 We all clear on that? Okay. Let me get all of y'all to
18 raise your right hand.

19 (Witnesses sworn.)

20 INDEPENDENT HEARING EXAMINER: Okay.
21 Thank you. Go ahead and -- Mr. Hardy, do we have a
22 holding room that we can put them in or --

23 MR. JOHN C. HARDY: We do.

24 INDEPENDENT HEARING EXAMINER: If y'all
25 will follow Mr. Bird, he will put y'all in a holding

1 room, and we'll call for you when we need you.

2 (Witnesses exited the room.)

3 INDEPENDENT HEARING EXAMINER: Okay. The
4 only other two preliminary things that I have, first of
5 all, as I said on the record earlier, there are other
6 people in the hearing room. By statute, the hearing's
7 closed unless the teacher requests it to be an open
8 hearing. It's my understanding, Mr. Adkison, that Mr.
9 Alexander has requested an open hearing; is that
10 correct?

11 MR. ADKISON: Yes, sir, your Honor.
12 We've done it on every schedule.

13 INDEPENDENT HEARING EXAMINER: Okay. The
14 final thing is I've spoken with the attorneys on this,
15 but I just need to get on the record we are -- if we do
16 not finish today, we are adjourning and by agreement
17 will return on Wednesday. Wednesday is a holiday, being
18 Texas Independence Day, and the parties have agreed to
19 continue the hearing despite it being a holiday; is that
20 correct?

21 MR. ADKISON: Yes, your Honor.

22 MR. JOHN C. HARDY: That's correct.

23 INDEPENDENT HEARING EXAMINER: All right.
24 Mr. Hardy, you may begin.

25 MR. JOHN C. HARDY: Do you prefer that we

1 stand when we address --

2 INDEPENDENT HEARING EXAMINER: whichever
3 is more comfortable and easier for you. If you need to
4 stretch your legs, you can stand.

5 MR. JOHN C. HARDY: I appreciate that,
6 Judge.

7 PETITIONER'S OPENING STATEMENT

8 MR. JOHN C. HARDY: This morning we're
9 here on behalf of the Troup Independent School District
10 regarding the proposed termination of Mr. Dennis
11 Alexander who has served as the athletic director and
12 head football coach at Troup. The case is actually a
13 very simple case from the district's standpoint. It is
14 not based upon Coach Alexander's evaluations for the
15 last couple of years. This situation arose because of
16 inappropriate contact with students.

17 Specifically we believe that the evidence
18 will clearly show that Coach Alexander hit more than one
19 student on more than one occasion and that his language
20 in addressing the staff and the students does not meet
21 the community standards nor the district standards, as
22 well as failing to get along with his coworkers as
23 required under our policy.

24 We believe that the evidence will clearly
25 show that Coach Alexander abused his position as head

1 football coach and athletic director and that this is a
2 situation that was not remediable under the Texas laws
3 and that the recommendation from the administration was
4 termination of his contract.

5 INDEPENDENT HEARING EXAMINER: Okay.
6 Thank you.

7 Mr. Adkison, would you like to make your
8 opening statement now or reserve?

9 MR. ADKISON: Well, your Honor, have you
10 received a copy of my Notice of Reservation of Federal
11 Questions?

12 INDEPENDENT HEARING EXAMINER: No.

13 MR. ADKISON: Let the record reflect that
14 I'm serving the parties with a copy of those also,
15 reserving the Fifth Circuit for federal questions for
16 determination by the Federal Court.

17 RESPONDENT'S OPENING STATEMENT

18 MR. ADKISON: Your Honor, I'm not here
19 to make any friends. I'm not here to be friends -- be
20 friends with anybody but the truth. The truth is that
21 the won/loss record Coach Alexander had for the past two
22 years was not good, that there was discussion already
23 started among the school board members by
24 dissatisfaction with that, that this was seized upon a
25 as a perfect opportunity.

1 The student involved in this allegation
2 is both the son and the grandson of a school board
3 member. The evidence is going to show you that this
4 investigation that was done is absolutely inadequate,
5 that it was result oriented, that the result to be
6 obtained was to get Coach Alexander to resign. The
7 reason for that is because he has a multiyear contract
8 that still has another year remaining on it after this
9 year.

10 As I understand it, at the behest of the
11 current school board president, which Coach Alexander
12 was hired, the current school board president being a
13 former coach, that Coach Alexander's contract does not
14 allow him to be reassigned, so the only option is to
15 fire him.

16 Now, as you look at the Reservation of
17 Federal Questions that I filed in this case, we are
18 expressly reserving those federal questions for
19 determination with the United States District for the
20 Eastern District of Texas. However, as the reservation
21 points out, those same actions violate the state
22 constitution. So you may hear evidence in this case
23 about constitutional violations. Those are expressly
24 referencing the state constitution, not the federal
25 constitution.

1 And I intend by cross-examination to show
2 that this investigation was rigged at the beginning, and
3 when I say that, that's no aspersion on Mr. Hardy. Mr.
4 Hardy only knows what he's been told by the
5 superintendent. The school board only knows what they
6 have been told by the superintendent. And as this
7 investig -- this hearing goes on, I'm going to try to
8 demonstrate for you what really happened. I'm going to
9 show you that Dennis Alexander's language is not worse
10 than any other coach and that the current president
11 of the school board and I stood right there in that
12 corner at a reception with Coach Alexander when he was
13 hired and laughed about it. It's not anything that
14 wasn't known to them when they hired him. And there was
15 an allegation of a racial slur, but that's so hilarious
16 I hadn't heard anything about it this morning.

17 And when we get through, you're the last
18 person that can save this school district from the
19 whitsells. Otherwise they're headed to federal court,
20 and if it doesn't do anything but get his year's salary,
21 the last one of those that I saw reported the attorney's
22 fees at \$350,000. So you're their last hope.

23 INDEPENDENT HEARING EXAMINER: Mr. Hardy,
24 call your first witness.

25 MR. JOHN C. HARDY: Call Mr. Stuart Bird.

1 INDEPENDENT HEARING EXAMINER: Mr. Bird,
2 go ahead and spell your first and last name for the
3 court reporter.

4 MR. BIRD: First name is Stuart,
5 S-t-u-a-r-t. The last name is Bird, B-i-r-d.

6 INDEPENDENT HEARING EXAMINER: And I did
7 not swear you in earlier. Let me get you to go ahead
8 and raise your right hand.

9 STUART BIRD,
10 having been first duly sworn, testified as follows:

11 INDEPENDENT HEARING EXAMINER: You may
12 proceed.

13 DIRECT EXAMINATION

14 BY MR. JOHN C. HARDY:

15 Q. Mr. Bird, would you state your name for the
16 record, please, sir?

17 A. Stuart Bird.

18 Q. And what position do you hold in employment
19 right now?

20 A. Superintendent of schools, Troup ISD.

21 Q. And how long have you held that position?

22 A. Four years at the end of this year.

23 Q. Were you a superintendent at Troup ISD at the
24 time Mr. Dennis Alexander was hired?

25 A. I was not.

1 Q. Okay. Who was the superintendent at that time?

2 A. They were without a superintendent at that
3 time.

4 Q. Had Mr. Beaty been --

5 A. Mr. Beaty was the prior superintendent.

6 Q. And do you recall who the Board president was
7 at the time Mr. Alexander was hired?

8 A. Yes, sir. That would be Andy Griffin.

9 Q. Let's talk a little bit about Mr. Alexander's
10 position with Troup ISD. What position does he hold?

11 A. He is the athletic director and head football
12 coach.

13 MR. JOHN C. HARDY: May I approach the
14 witness?

15 INDEPENDENT HEARING EXAMINER: Yes.

16 MR. JOHN C. HARDY: Your Honor, what I've
17 handed the witness is a list of 22 exhibits from the
18 school district's point of view that I'd previously
19 shared with Mr. Ron Adkison, attorney for Mr. Alexander.
20 It's my understanding that -- it was reported to you
21 earlier that there were no objections to those exhibits.

22 MR. ADKISON: That's not true. These
23 Exhibits 2, 3, 4, 5, 6, 7, 8, 9 all are hearsay
24 statements through the definition of hearsay. They're
25 out of court statements made by the witness not here.

1 It's offered for -- to show the truth of the matter
2 asserted therein. For that reason, I certainly object
3 to those.

4 INDEPENDENT HEARING EXAMINER: All right.
5 Hold on just a second.

6 MR. ADKISON: One other point.

7 INDEPENDENT HEARING EXAMINER: I'm
8 listening.

9 MR. ADKISON: The introduction of those
10 evidence would deprive my -- this coach of a
11 constitutional right to confront his accusers in the
12 termination hearing. Violations of his civil liberties
13 have been enough at this point. This only exacerbates
14 it.

15 INDEPENDENT HEARING EXAMINER: Let's go
16 through them, Mr. Adkison. Which ones do you not have
17 objections to?

18 MR. ADKISON: No. 1 is the contract. I
19 have no objection to that. No. 10, the Standards of
20 Conduct, Reports. No. 11, Termination During Contract.
21 The only objection to those are that they are selective
22 parts of a statute or a -- or a governing enactment, and
23 for optional completeness the entire statute or
24 enactment should be in place. The agenda of the special
25 board meetings of the Troup ISD, 12, 13, 14, 15, 16, 17,

1 18, I don't object to. In fact, I welcome them. They
2 show the constitution violation for failure to give a
3 prompt hearing. 19 I don't object to. It's a letter
4 sent by the superintendent. 20 appears to be coaching
5 staff evaluation forms for one of the witnesses. Those
6 were authored by my client, and I don't object to them.

7 MR. JOHN C. HARDY: Your Honor, while
8 you're going through those documents, the one number
9 that I did not hear, and I may have just missed it, was
10 No. 18.

11 INDEPENDENT HEARING EXAMINER: I thought
12 that he said that 18 he was fine with.

13 MR. JOHN C. HARDY: Okay. Thank you.

14 INDEPENDENT HEARING EXAMINER: Okay.
15 Petitioner's Exhibit 1 is admitted. Petitioner's
16 Exhibit 10, I heard your objection, Mr. Adkison. It's
17 overruled. 10 is admitted. Okay. Objection to 11 is
18 overruled. 11 is admitted. 12, 13, 14, 15, 16, 17, 18,
19 19, 20, 21, 22 are all admitted.

20 (Petitioner's Exhibits 1 and 10-22
21 admitted.)

22 INDEPENDENT HEARING EXAMINER: Now, Mr.
23 Hardy, that leaves us with Exhibits 2 through 9, and
24 we've got a hearsay objection on those. What's your
25 response?

1 MR. JOHN C. HARDY: My response to that
2 is that those are documents that were made in the
3 investigation by Mr. Stuart Bird, charged with the
4 investigation regarding the wrongdoings of Dennis
5 Alexander, that those were made contemporaneous to the
6 time of the events. They were part of the official
7 records of the school district and should be admitted.
8 I can also test -- excuse me. I can also say for the
9 hearing officer that the witnesses are available, and
10 they will be called to verify those documents.

11 MR. ADKISON: Such time as they're
12 called, they may become admissible, but in the meantime,
13 the predicate for a business record hadn't been met.
14 It's probably not really a business record, and these --
15 until these witnesses hit the witness stand, these are
16 not admissible. And there's no harm to them if they're
17 planning on calling them anyway.

18 INDEPENDENT HEARING EXAMINER: Yeah.
19 I -- I think, Mr. Hardy, you know, without taking the
20 time to read through each one of these, just generally
21 they -- these look like handwritten statements that were
22 made by, I presume, students, but there may be adults in
23 here, too. I think you can certainly ask him general
24 questions about these, but -- but for now, the objection
25 is sustained. Obviously, once you bring those students

1 or adults in, then that changes it.

2 MR. JOHN C. HARDY: Thank you. Are we
3 ready to proceed?

4 INDEPENDENT HEARING EXAMINER: Yes.

5 Q. (BY MR. JOHN C. HARDY) Mr. Bird, if you'll
6 look in front of you, you have a list of exhibits. Do
7 you see item No. 1?

8 A. Yes, sir.

9 Q. Is that the contract that Mr. Alexander serves
10 at this time?

11 A. It is.

12 Q. And just for the record, explain to the hearing
13 officer what happened that caused Mr. Alexander's
14 employment status to come into question in your office?

15 A. What happened was that he -- it was reported to
16 me through a variety of sources that Coach Alexander had
17 slapped a student or students on the football field at
18 practice.

19 Q. And was that a concern to you?

20 A. It's always a concern to me when we put our
21 hands on people.

22 Q. As the chief officer in operating, the person
23 in charge of the district, did you undertake an
24 investigation regarding that situation?

25 A. Yes, sir, I did.

1 Q. Who -- who was the first person that reported
2 to you that one or more students had been struck by Mr.
3 Alexander?

4 A. One of the student's parents.

5 Q. And what was that parent's name?

6 A. John Whitsett.

7 Q. Does he also serve on the school board?

8 A. He does.

9 Q. Did that make any difference to you?

10 A. None.

11 Q. Are all students treated the same under your
12 eyes?

13 A. Yes, sir.

14 Q. When that was reported to you, explain what
15 steps you took in your investigation.

16 A. I -- from that -- from the time he reported it
17 to me, it was reported to me again the next morning. I
18 immediately went to the high school and asked that our
19 principal assemble students that were in the proximity
20 of where the student was allegedly slapped and that he
21 assemble as many of those as he could find through the
22 report of adults who were on the field. He assembled
23 those students. I asked that they not have time to
24 contact each other. I wanted them one at a time.

25 I asked each of those students to come in

1 and to -- and just sit down with Mr. Smith and myself
2 and just was investigating an incident that may have
3 happened at football practice the day before or maybe it
4 was even the day before that by this time, by the time I
5 got the information, and was there anything that, you
6 know, that they -- that went on that was unusual. And
7 if I'm not mistaken, all but one of them said to me, You
8 mean when Coach A slapped Colton? And I said, That
9 would be the incident I'm in reference to. And then I
10 said, Tell me what you know about that, and each of them
11 shared with me their information. I asked that they be
12 carried to a separate room without contact of any of the
13 other people and that they just write a statement as to
14 what they had said, sign it and date it.

15 Q. Did you also talk with some of the staff at
16 Troup ISD about what had happened?

17 A. I did. I talked to our trainer, Sam, and I
18 talked to several coaches. I had the coaches come in.
19 I asked them the same question. They all knew what I
20 was in reference to. All but -- almost none of the
21 coaches actually saw it. But they heard the kids
22 talking about it. But they never really -- they didn't
23 actually see what took place. My trainer, Sam, did see
24 it, and there may have been one other coach that'll have
25 an opportunity to speak, I think, today, that saw

1 something relative to that.

2 Q. Did you feel that you needed to talk to every
3 single person that was out there on the field that day?

4 A. I did not. I thought I had a pretty good
5 sampling of what went on, especially those that were in
6 the closest proximity to the situation, and that was
7 what I was most interested in. Obviously, as many
8 people as were gathered, there would be people there who
9 could not obviously have seen what went on, may not have
10 been paying attention enough to see what went on, so
11 forth and so on. So I really thought I had a very good
12 sampling of what I needed.

13 Q. Did you have more than one student that said
14 that they had been struck?

15 MR. ADKISON: Object to leading.

16 A. Answer it? Yes. I did have more than one
17 student.

18 INDEPENDENT HEARING EXAMINER: Overruled.

19 A. I had two student -- two other students that
20 said they'd been struck.

21 Q. (BY MR. JOHN C. HARDY) Did that cause you any
22 concern?

23 A. It always causes me concern when you strike
24 students in -- in education, or any time for that
25 matter.

1 Q. Did these events take place on or about October
2 the 19th?

3 A. Yes, sir.

4 Q. And was your investigation started very quickly
5 after that?

6 A. Yes, sir. As soon as I found out the -- as
7 soon as it was reported to me, it started immediately.

8 Q. Did you offer or request Mr. Alexander to come
9 to your office and visit with you about the situation?

10 A. I did.

11 Q. What happened during that first visit?

12 A. We visited and he came over. And, in fact, by
13 the time I got back to my office and at the end of the
14 -- of my -- that part of the investigation, I got a text
15 from him that said that he was -- despite reports, he
16 was doing -- alive and well in the field house. Then I
17 said, Then you need to come and visit with me. So he
18 came over and we sat down and visited. And I asked him
19 questions about football practice and, you know, various
20 things like that, and then I finally got down to saying,
21 Did you slap Colton Whitsell?

22 And his response to me was, I didn't slap
23 anybody.

24 I said, well, tell me what did happen.

25 He said, I don't know what happened, he

1 said, but I didn't slap anybody.

2 Q. Did he acknowledge striking another student or
3 pushing one down?

4 A. He acknowledged taking Colton's headband off of
5 his head. That wasn't at the time of the slap. I don't
6 know that he acknowledge -- no, sir. He did not
7 acknowledge that to me.

8 Q. Did you offer Mr. Alexander an opportunity to
9 tell his side of the story?

10 A. Yes, sir; more than one time.

11 Q. Did he tell it?

12 A. He told me what I said he said, that he didn't
13 slap anybody. And when I said, well, then, Dennis, tell
14 me what happened, he said, I don't know. And we had two
15 other conversations after that.

16 Q. How did those -- let's talk about those. How
17 did those con -- did they differ from the first
18 conversation?

19 A. They differ a little from the first. In fact,
20 we had -- he and I talked, and I had -- I asked him,
21 will you sit down with the student's dad and have a
22 conversation with him?

23 You know, let me -- if I may paint this
24 picture. These are good friends. These folks get along
25 well. They go to church together. I really thought,

1 based on what -- what I knew, that if we could get those
2 guys together, that they might have a conversation and
3 we might resolve that issue.

4 MR. ADKISON: I'm going to object. This
5 is nonresponsive to anything he's been asked.

6 INDEPENDENT HEARING EXAMINER: Sustained.

7 Q. (BY MR. JOHN C. HARDY) Tell us what happened
8 in the second conversation with Mr. Alexander. Was his
9 demeanor the same as it had been in the first?

10 A. It was.

11 Q. Describe his demeanor in the first
12 conversation.

13 A. You know, Dennis and I have been friends a long
14 time, so our friendship runs deep, and we have very good
15 conversations. It was, at the very least, reserved.

16 Q. What was his emotional status?

17 A. Concerned to me.

18 Q. Did he -- in your opinion, did he have an
19 opportunity to rebut what you were discussing with him?

20 A. He certainly did, and he had an opportunity to
21 at least tell me what happened so I could kind of wrap
22 my head around it. I just didn't get that information.

23 Q. Was it your evaluation after those
24 conversations that he should be suspended?

25 A. It was for fear that if, in fact, that did

1 happen, that if I put him back out there, then I run the
2 risk of it happening again to someone else, but we
3 already had that information.

4 Q. Did you direct Mr. Alexander to leave the
5 premises and not return to the Troup facilities?

6 A. I did.

7 Q. And did he follow that directive?

8 A. No, sir.

9 Q. Did any Board member know a suspension, within
10 your knowledge, a suspension of Mr. Alexander before it
11 took place?

12 A. No, sir.

13 Q. If you will turn over in the exhibits that are
14 in front of you, Mr. Bird, and look at Item No. 10,
15 please, sir. It's been admitted into evidence. Do you
16 recognize that as a policy of Troup ISD?

17 A. I do.

18 Q. Is that reporting requirements regarding an
19 employee's misconduct?

20 A. Yes, sir.

21 Q. Is that policy in place here at Troup?

22 A. It is.

23 Q. Did you follow that policy?

24 A. Yes, sir, I did, to the best of my --

25 Q. What did you do to follow that policy?

1 A. Primarily stayed in contact with you to be sure
2 we were following the policy, to be sure that we weren't
3 violating the policy. I kept John in contact the whole
4 time because this was a very serious matter, and that's
5 basically --

6 MR. ADKISON: Your Honor, are they
7 intending to waive the attorney-client privilege?

8 MR. JOHN C. HARDY: No.

9 MR. ADKISON: If he's going to -- if he's
10 going to rely -- if he's going to rely upon
11 conversations with the attorney, then he's waiving it.

12 INDEPENDENT HEARING EXAMINER: I don't
13 think he -- I don't think he said anything that the
14 attorney told him or that he told the attorney. He was
15 just referencing that he had conversations with the
16 attorney. Continue, Mr. Hardy.

17 MR. JOHN C. HARDY: Thank you, sir.

18 Q. (BY MR. JOHN C. HARDY) Mr. Bird, did you write
19 a letter to the State Board of Education Certification
20 regarding Dennis Alexander?

21 A. Yes, sir, I did.

22 Q. Did you feel it was necessary?

23 A. Yes, sir, I did.

24 Q. If you'll look at Item No. 11, Exhibit -- the
25 next one, policy DFBA Legal.

1 A. Yes, sir.

2 Q. Is that a policy of the Troup Independent
3 School District?

4 A. It is.

5 Q. And did you, to the best of you ability, follow
6 that policy?

7 A. I did.

8 Q. Was this the part of the policy that you
9 suspended Mr. Alexander under?

10 A. Yes, sir.

11 Q. Was Mr. Alexander suspended with or without
12 pay?

13 A. With pay.

14 Q. So Mr. Alexander's been paid since October the
15 19th through today?

16 A. That's correct.

17 Q. And did you believe that the safety of the
18 students at Troup ISD were in jeopardy if Mr. Alexander
19 was back on campus?

20 A. I did.

21 Q. Is that why he remains suspended?

22 A. Yes, sir.

23 Q. Now, during this time of suspension, was Mr. --
24 with Mr. Alexander on suspension, did the Board have
25 several meetings?

1 A. Yes, sir.

2 Q. And did you attend those meetings?

3 A. Yes, sir.

4 Q. If you'll look at Item No. 12, that is an
5 Agenda, notice of a special board meeting on November 3,
6 2015. Do you see that?

7 A. Yes, sir.

8 Q. Did you attend that meeting?

9 A. Yes, sir.

10 Q. Was part of the discussion that night in
11 executive session -- I'm not asking you what was said in
12 executive session.

13 A. Sure.

14 Q. But I'm asking was part of that meeting an item
15 listed as discussion of contract of Dennis Alexander?

16 A. Yes, sir.

17 Q. Okay. And then if you'll look at Item No. 13.

18 A. Okay.

19 Q. Is that your letter to the Texas Education
20 Agency regarding the allegation of educator misconduct
21 regarding Dennis Alexander?

22 A. Yes, sir.

23 Q. Do you have anything in there that you feel is
24 incorrect, untrue, or out of -- out of character with
25 what transpired?

1 A. No, sir.

2 Q. I'd ask you to look at Item No. 14, please,
3 sir.

4 A. Okay.

5 Q. Can you identify that as the Notice of Special
6 -- Agenda, Notice of Special Meeting of the Board of
7 Trustees that shows that it took place on Friday,
8 October 30th at approximately 9:00 o'clock?

9 A. Yes, sir.

10 Q. Again, does it talk about Item No. 6 on that
11 agenda, a possible action on the contract of athletic
12 director --

13 A. Yes, sir.

14 Q. -- Dennis Alexander?

15 A. Yes, sir.

16 Q. Then on Item No. 15, are those the official
17 minutes in the records of the Troup ISD Board of
18 Trustees?

19 A. Yes, sir.

20 Q. And that's regarding a meeting of November the
21 3rd?

22 A. Uh-huh.

23 Q. Okay. If you'll look at Item No. 16, is that
24 the agenda where there was a Notice of Special Meeting
25 of the Board on December 18th --

1 A. Yes.

2 Q. -- 2015?

3 Is that part of the official notice?

4 A. Yes, sir.

5 Q. And then Item No. 17, Mr. Bird, are those
6 minutes of the board meeting of December 18th?

7 A. Yes, sir.

8 Q. And under Item No. 7 of the minutes, does it
9 reflect what action the Board took regarding Dennis
10 Alexander's contract?

11 A. Yes, sir.

12 Q. Would you read that for the Court, please?

13 A. Yes, sir. It says, Shane Jasper moved to
14 propose termination of Dennis Alexander as athletic
15 director/head football coach and that he provide notice
16 -- that he be provided notice of this proposed
17 termination as soon as possible. Robbie Switzer
18 seconded that motion.

19 Q. Okay. And what was the vote on that motion?

20 A. 4-0.

21 Q. Okay. If you'll look back up at the top of
22 those minutes, it shows members that were present, does
23 it not?

24 A. Yes, sir.

25 Q. And it shows that Mr. Gene Whitse11 and Mr.

1 John Whitse11 were -- were present, does it not?

2 A. Yes, sir.

3 Q. And do you know for a fact whether or not they
4 participated in any of the discussions or the vote
5 regarding Dennis Alexander?

6 A. No, sir. They did not.

7 Q. If you'll look at Item No. 18, you notice that
8 that's the Notice of Proposed Termination of Term
9 Contract?

10 A. Yes, sir.

11 Q. Was that the action that was addressed by the
12 Board directing the board president to give Mr.
13 Alexander notice of proposed termination?

14 A. Yes, sir.

15 Q. And was that shared with Mr. Alexander?

16 A. Yes, sir.

17 Q. Then if you'll look at No. 19 with me, please,
18 sir. Is that a letter on Troup ISD letterhead?

19 A. Yes, sir.

20 Q. Is it a letter signed by you as Troup
21 Independent School District superintendent?

22 A. It is.

23 Q. Is it dated -- what date is it?

24 A. This is dated December the 18th, 2015.

25 Q. And did you prepare this letter regarding the

1 Board action on the proposed termination of the contract
2 of Dennis Alexander?

3 A. Yes, sir.

4 Q. And does that letter correctly reflect the
5 persons that you believe will be witnesses at the time
6 if there is a hearing?

7 A. Yes, sir.

8 Q. And does it also have a basis under -- on the
9 second page, a basis for your recommendation for
10 proposed termination?

11 A. Yes, sir.

12 Q. And does it list each item?

13 A. Yes, sir.

14 Q. Eight items?

15 A. Yes, sir. There are eight there.

16 Q. And you believe that each of those items is a
17 relevant area for the termination of this coach?

18 A. Yes, sir.

19 Q. Do you believe that inappropriate contact with
20 students is a good a cause for termination of a coach's
21 contract?

22 A. Yes, sir.

23 Q. Do you believe that behavior that presents a
24 danger of physical harm to students is a good cause
25 reason for termination?

1 A. Yes, sir.

2 Q. Do you believe that abuse of a student is a
3 good cause for termination?

4 A. Yes, sir.

5 Q. Do you believe that assault on a student is
6 good cause for termination?

7 A. Yes, sir.

8 Q. Item No. 5, use of profanity in the course of
9 performing your duties of employment in the presence of
10 students and staff, as well as the public. Is that
11 acceptable conduct at Troup ISD?

12 A. No, sir.

13 Q. Is that good cause, you believe, for
14 termination of a contract?

15 A. Certainly.

16 Q. Did your investigation lead you to believe that
17 these items that we've gone through here, 1 through 5 so
18 far, constituted good cause and based upon your
19 investigation --

20 A. Yes, sir.

21 Q. -- was cause for termination?

22 A. Yes.

23 Q. No. 6, failure to meet the district's standards
24 of professional conduct. Do you feel that Mr. Alexander
25 met the standards of professional conduct at Troup ISD?

1 A. No, sir.

2 Q. No. 7, the list is failure to maintain an
3 effective working relationship and good rapport with
4 students, staff, and community. Do you feel that Coach
5 Alexander did that?

6 A. Yes, sir.

7 Q. You felt like he had good rapport with the
8 students?

9 A. No, no. I'm sorry. I misunderstood that. No.
10 He -- with some and some not.

11 Q. What about the staff?

12 A. Same thing.

13 Q. Do you still believe as you're here testifying
14 today that Coach Alexander should be terminated from his
15 position as coach and athletic director at Troup ISD?

16 A. Yes, sir.

17 Q. Did your investigation lead you to believe
18 that?

19 A. Yes, sir.

20 Q. Did you believe that the students that you
21 talked to were credible?

22 A. I did.

23 Q. Did you believe that they were reliable?

24 A. Yes, sir.

25 Q. Did they share with you their concern about

1 this coach?

2 A. Yes, sir.

3 Q. What about the staff? Did you talk to some
4 of the staff?

5 A. I did.

6 Q. Did the staff provide you with comments that
7 led you to believe that it was inappropriate for him to
8 remain here as coach at Troup ISD?

9 A. Yes.

10 Q. Did you, from your investigation, believe that
11 Coach Alexander struck more than one student?

12 A. Yes, sir.

13 Q. Did your investigation lead you to believe that
14 inappropriate language was addressed to staff and
15 students by Mr. Alexander?

16 A. Yes, sir.

17 Q. Do you believe that Coach Alexander can come
18 back to Troup ISD and be successful as a coach?

19 A. I do not.

20 MR. JOHN C. HARDY: Pass the witness.

21 CROSS-EXAMINATION

22 BY MR. ADKISON:

23 Q. Well, he sure can't now, can he? Your
24 investigation took care of that, didn't it?

25 A. Yes, sir, I suppose. I don't know whether they

1 did or not. That's what we're here to decide.

2 Q. well, you just testified under oath that you
3 had an opinion about it.

4 A. well, I do.

5 Q. well, you recognize the two statements you just
6 made about you know and you don't know are entirely
7 contradictory under oath, don't you?

8 A. You know, maybe, maybe not.

9 Q. You understand you're under oath just like if
10 you --

11 A. I understand --

12 Q. -- were testifying --

13 A. -- that.

14 Q. -- in court?

15 A. I -- I got a handle on it.

16 Q. All right. Now, let me ask you this: The
17 first person to report this to you, this allegation to
18 you was a school board member, correct?

19 A. That's correct.

20 Q. And the child that he was making this complaint
21 about is also the grandson of a school board member,
22 correct?

23 A. That's correct.

24 Q. Now, when did you receive that complaint?

25 A. I received that complaint, if I'm not mistaken,

1 on Tuesday. I think Tuesday afternoon.

2 Q. What time?

3 A. You know, I don't really remember what time.

4 Q. When was the incident supposed to have
5 occurred?

6 A. Monday.

7 Q. Okay. And was the school board member who's
8 the parent, what did he tell you?

9 A. He called me and he said, There's probably
10 something I need to tell you, and I slept on it
11 overnight. And he said, But I don't want anything to
12 happen. And I said, well, it depends on what you tell
13 me as to what's going to happen because there are some
14 things that I have to follow-up on. And I had already
15 had a report that --

16 Q. Okay. That's -- you've answered my question.

17 A. Gotcha.

18 Q. At what point did you start to keep a file?

19 A. I started keeping a file, I guess when I
20 started the investigation at the high school. That
21 includes these --

22 Q. Well, did you make notes on the conversation
23 that you had with the school board member parent and put
24 it in your file?

25 A. I did not.

1 Q. Well, I've read a lot of this stuff about
2 people's duties at schools. One of the things that a
3 superintendent does is keep and maintain adequate
4 records.

5 A. Yes, sir.

6 Q. So that's your duty under your contract and
7 under the state law to keep a record of what the school
8 district does, isn't it?

9 A. That's correct.

10 Q. And you knowingly failed to make an entry that
11 started this entire investigation?

12 A. I disagree with you on that. I -- I'm --

13 Q. Well, is there a record of it? Excuse me. Is
14 there a record of it?

15 A. There's not a record of that conversation, no.

16 MR. JOHN C. HARDY: I'm going to object
17 to the arguments. I mean, he can ask a question. He
18 can be civil about it. The witness is willing to answer
19 it.

20 INDEPENDENT HEARING EXAMINER: Yeah.
Mr. Adkison --

21 MR. ADKISON: I'll calm down.

22 INDEPENDENT HEARING EXAMINER: Well, let
23 me finish, first of all.

24 MR. ADKISON: I'm sorry.

25 INDEPENDENT HEARING EXAMINER: When you

1 ask the witness a question, let him finish his answer.

2 MR. ADKISON: May I object to
3 nonresponsive if it's nonresponsive?

4 INDEPENDENT HEARING EXAMINER: If it's
5 not responsive, you can object.

6 Q. (BY MR. ADKISON) Now, when did you start
7 keeping a file?

8 A. I started keeping a file when we started
9 talking to coaches and children, those that you objected
10 to.

11 MR. ADKISON: Object to the last part as
12 nonresponsive. Your Honor?

13 INDEPENDENT HEARING EXAMINER: Sustained.

14 Q. (BY MR. ADKISON) Now -- so if you got the
15 report on Tuesday, when did you first start talking to
16 coaches and children?

17 A. Probably sometime around 9:00 o'clock on
18 Tuesday morning -- I mean, it would have been Wednesday
19 morning.

20 Q. So you interviewed nobody on Tuesday?

21 A. Let me think through that a minute. Let me
22 think through that for a minute. I think he called me
23 on Tuesday. So no, I wouldn't have interviewed anybody
24 'til Wednesday.

25 Q. So you interviewed nobody Tuesday?

1 A. Yes.

2 Q. All right. Where is the file that you kept?

3 A. The file that I kept?

4 Q. Uh-huh.

5 A. Right here.

6 Q. So the only file that you have are the exhibits
7 that you have either -- that you've attempted to offer
8 into evidence, correct?

9 A. That's the only records I have, yes.

10 Q. Now, when did you suspend Coach Alexander?

11 A. That would have been Wednesday afternoon.

12 Q. What was the date?

13 A. 21st.

14 Q. October 21st?

15 A. Uh-huh.

16 Q. What is today?

17 A. What is today? I don't know what today -- I
18 don't know what today is.

19 Q. February 29?

20 A. Yes, sir.

21 Q. 2016?

22 A. Yes, sir.

23 Q. Has Coach Alexander been given an opportunity
24 to have a hearing at any time between October 21st and
25 February the 29th?

1 A. No, sir.

2 Q. whose decision was that?

3 A. well, I guess it would have been our decision.

4 Q. who's "our"?

5 A. well, that would have been John and I and the
6 Board.

7 Q. well, you're not saying that Mr. Hardy has any
8 discretionary authority with the school district?

9 A. He does not.

10 Q. So if there's any fault later to be laid for
11 delaying the hearing, it's not Mr. Hardy's fault, is it?

12 A. No, it's not. It would be myself and the
13 school board.

14 Q. Now, you made a statement earlier that at the
15 time that you made the decision to suspend Coach
16 Alexander that you had consulted no school board
17 members. Did I understand that correctly?

18 A. That is correct. I had notified my board
19 president as to what was going on, but I did not notify
20 him before I suspended him.

21 Q. well, now, that's not true, because you've
22 already told me that you talked to John whitsell, didn't
23 you?

24 A. I didn't talk to John whitsell about suspending
25 him.

1 Q. well, you had talked to John whitsell about the
2 incident.

3 A. I had talked to him.

4 Q. Did you talk to Gene whitsell about the
5 incident?

6 A. I did not.

7 Q. How many times did you talk to John whitsell
8 between the time that he made the report to you and the
9 time that you made the decision to suspend?

10 A. Twice.

11 Q. And the first would have been the time that he
12 made the report?

13 A. Yes, sir.

14 Q. What was the second?

15 A. When he and Dennis and I met.

16 Q. How soon after the meeting with Mr. whitsell in
17 attendance with Coach Alexander did you make the
18 decision to suspend Coach Alexander?

19 A. I asked Mr. whitsell to leave that meeting,
20 which was very brief, and I told Dennis that afternoon
21 I'd have to suspend him.

22 Q. So do I understand that you called Coach
23 Alexander to a meeting with a school board member whose
24 child was involved in this alleged incident, and
25 immediately after that meeting you asked the school

1 board member to step out while you suspended Coach
2 Alexander?

3 A. I asked him -- he left. He didn't just step
4 out. He left and he was not aware of what was about to
5 take place. You have to remember --

6 Q. Excuse me.

7 A. -- that that meeting was a reconciliation --

8 MR. ADKISON: Objection -- Excuse me. I
9 object to nonresponsive.

10 INDEPENDENT HEARING EXAMINER: Sustained.

11 Q. (BY MR. ADKISON) So if we just look at this
12 factually, Coach Alexander is summoned to a meeting at
13 which a school board member whose child is the subject
14 of the investigation is present, that person leaves, and
15 immediately Coach Alexander is suspended. Is that the
16 chain of facts?

17 A. More or less.

18 Q. Now, you've been aware during the course of
19 this pendency of this matter that Mr. Hardy and I have
20 been having conversations about the names of all the
21 persons that were interviewed by you, correct?

22 A. Correct.

23 Q. And I want to show you, because I'm sure you
24 were copied on it, a letter that Mr. Hardy sent me that
25 says that the only person interviewed that did not

1 provide a written statement was Colton Whitse11.

2 A. Uh-huh.

3 Q. Is that a true statement?

4 A. You know, I -- I suppose it is. I don't know
5 whether that is or not. If we -- there was an intention
6 to get that statement. We did interview him, but -- and
7 let -- and hear his story, and it was our intention to
8 get a statement from everyone who was interviewed.

9 Q. Okay. Let's -- let me break that down just a
10 minute.

11 A. All right.

12 Q. First of all, are you telling me that at the
13 time you made your decision to suspend Coach Alexander
14 you had not interviewed Colton Whitse11?

15 A. That is not at all what I just said.

16 Q. Okay. Well, tell me what you just said.

17 A. What I just said was we had already interviewed
18 Colton. Colton was the first person we interviewed
19 about that situation, and my intent was that each of
20 those young men were to leave that room and go into the
21 next room and write a statement, and for some reason
22 after he left the room, he didn't write the statement.

23 Q. Okay.

24 A. But he was the first person.

25 Q. So was Colton interviewed in a room with other

1 students?

2 A. No, sir.

3 Q. All right. Now, the second part of that is, is
4 that every person besides Colton WhitSELL that you
5 interviewed about this matter, you took a statement
6 from.

7 A. Say that again.

8 Q. The other side of that coin would be, then,
9 that every person that you interviewed besides Colton
10 WhitSELL you took a statement from.

11 A. That is a true statement.

12 Q. And that's your statement under oath, that you
13 provided to Mr. Hardy a statement from every person you
14 interviewed about the allegations about Coach Alexander
15 except Colton WhitSELL?

16 A. Let me back up on that just a minute, and let
17 me just tell you that there may have been people that I
18 interviewed that did not have knowledge of the
19 situation, and if they didn't have any knowledge of the
20 situation and didn't see anything relative to it, I did
21 not take their statement.

22 Q. So any person who issued -- any person who
23 denied that the incident took place you would have taken
24 a statement from?

25 A. That is correct.

1 Q. And that's your testimony under oath?

2 A. Yes, sir.

3 Q. Now, do you know what steps either of the Mr.
4 whitells took outside your presence that might have
5 influenced your investigation?

6 A. No, sir.

7 Q. Now, did Mr. whitell, John whitell suggest to
8 you names of persons that it might do well for you to
9 interview?

10 A. I don't remember that at all.

11 Q. Did you make any notes in the school file?

12 A. No. I didn't take notes on that, but I don't
13 remember him suggesting anybody that I interview. I
14 made those decisions pretty much on my own, if I
15 remember correct.

16 Q. Well, I thought a minute ago you said that you
17 asked the principal to find out who was closest in
18 proximity. So did you make the decision, or did the
19 principal make the decision?

20 A. Well, I made the decision on who and -- and the
21 basis on which were selected. I asked that my principal
22 select those -- go with sam to select those people.

23 Q. Okay. So now it was sam, right?

24 A. Yes.

25 Q. So now it's not just the principal going to

1 find people to interview. Now it's Sam, correct?

2 A. Correct.

3 Q. Now, Coach Alexander writes Sam's performance
4 review, correct?

5 A. That is correct.

6 Q. And Sam was previously on staff with the school
7 where you were formerly, correctly?

8 A. Yes, sir.

9 Q. If you had a complaint about a member of the
10 training staff attempting to solicit an improper
11 relationship with a student, what would you do?

12 A. I'd investigate it.

13 Q. Have you ever had such a complaint while you
14 were a superintendent?

15 A. No, sir.

16 Q. And if it was determined that the head trainer
17 knew of those incidents and failed to report them, what
18 action would be appropriate against the head trainer?

19 MR. HARDY: I'm going to object. That's
20 irrelevant and immaterial.

21 INDEPENDENT HEARING EXAMINER: Sustained.

22 Q. (BY MR. ADKISON) Now, when you talked to Mr.
23 Whitself either time, did he tell you that he was
24 interviewing students himself?

25 A. No, sir.

1 Q. If he had told you that, would you have changed
2 your course of conduct?

3 MR. JOHN C. HARDY: I'm going to object
4 on that question as speculation.

5 INDEPENDENT HEARING EXAMINER: Go ahead
6 and respond.

7 MR. ADKISON: This is a unique situation
8 constitutionally where you have a member of what would
9 be the decision-making governing Board actively
10 participating in the investigation of an incident. The
11 later recusal from decision-making doesn't entirely
12 solve that problem, so it's relevant on state
13 constitutional issues.

14 INDEPENDENT HEARING EXAMINER: I'm going
15 to sustain that. I think you're asking him to
16 speculate. He said that there was no indication that
17 Whitseil was doing his own investigation.

18 Q. (BY MR. ADKISON) Well, these statements that
19 Mr. Hardy has offered, I'm assuming that since you --
20 and were you the sole investigator of this suspension
21 investigation?

22 A. Yes, sir.

23 Q. So I'm assuming if it -- you were the sole
24 investigator and you were the one making the decision,
25 that you carefully read all of these statements, didn't

1 you?

2 A. I did at the time, yes, sir. And I listened to
3 the verbal statements.

4 Q. So if you look at Exhibit No. 5 --

5 MR. JOHN C. HARDY: Your Honor, that's a
6 mischaracterization. He's objected to Exhibit No. 5.
7 We're certainly willing to stipulate. I thought we had
8 before we started, but if we're going to question him
9 from the exhibits, I think that they ought to be
10 admitted.

11 MR. ADKISON: I understood your
12 instruction to him to be that he could generally ask
13 questions about them before they were in evidence, and
14 that's all I'm doing.

15 INDEPENDENT HEARING EXAMINER: I'm going
16 to overrule it at this point because I haven't heard a
17 specific question.

18 MR. ADKISON: Sure.

19 INDEPENDENT HEARING EXAMINER: The only
20 thing I've heard is for him to look at Exhibit 5, but...

21 Q. (BY MR. ADKISON) Particularly if you look at
22 the second paragraph in Exhibit 5.

23 A. Yes, sir. Gotcha.

24 Q. Did you ever give any instructions to the
25 school board member to not be contacting witnesses?

1 A. I did not specifically give him that
2 information. I don't remember specifically doing that.
3 Let's just put it that way.

4 Q. And you didn't keep a file other than what's
5 here in front of you?

6 A. That's correct.

7 MR. ADKISON: Your Honor, if I could have
8 just a second, I may can shorten this up.

9 A. Thank you. I would have another comment to
10 that statement.

11 Q. (BY MR. ADKISON) I also believe that in your
12 testimony you said that none of the coaches saw the --
13 let me rephrase that.

14 None of the coaches confirmed seeing the
15 incident made the basis of the allegation, correct?

16 A. I said with the exception of one.

17 Q. Okay. Which one?

18 A. That would have been Tell Ross.

19 INDEPENDENT HEARING EXAMINER: I'm sorry.
20 what was that name?

21 A. Tell Ross.

22 Q. (BY MR. ADKISON) Now, did you personally
23 interview Tell Ross?

24 A. Yes, sir.

25 Q. Was anyone else present when you interviewed

1 Tell Ross?

2 A. I don't remember. If it would have been, it
3 would have been David Smith.

4 Q. Was that the principal?

5 A. Yes, sir.

6 Q. Now, why would Mr. Smith have been present?

7 A. Because the interview took place in his office.
8 Mr. Smith was present for the majority of, if not all,
9 the interviews.

10 Q. Did he take notes?

11 A. I can't answer that question.

12 Q. You said after a certain point you put the
13 students in a separate room to write statements. Were
14 they all in the same room?

15 A. They were not at the same time ever in the same
16 room, to my knowledge.

17 Q. Were any two of them ever in the same room?

18 A. Not to my knowledge.

19 Q. Now, see if you can help me with this. As I
20 understand, another allegation that you have is that
21 Coach Alexander's language was bad. Did I understand
22 that correctly?

23 A. That's correct.

24 Q. And what specific part of the Board policy --
25 well, I think I can cut this even shorter than that.

1 who was denominated as Coach Alexander's
2 successor as athletic director? John Eastman?

3 A. That would be correct. Thank you.

4 Q. While Dennis Alexander was on suspension,
5 partly, I suppose, over his language, did John Eastman
6 get ejected from a basketball game?

7 A. He did.

8 Q. And he got ejected from a basketball game for
9 the use of profanity, didn't he?

10 MR. JOHN C. HARDY: Your Honor, I'm going
11 to object. That's irrelevant and immaterial.

12 MR. ADKISON: Part of it is whether or
13 not policy is clear under the state constitution to
14 determine whether an action conforms or does not
15 conform.

16 INDEPENDENT HEARING EXAMINER: I'm going
17 to allow it for now. Go ahead.

18 Q. (BY MR. ADKISON) So Mr. Eastman got ejected
19 from a basketball game for language, didn't he?

20 A. He did.

21 Q. Did you initiate a termination proceeding
22 against him?

23 A. Mr. Eastman called me and told me what --

24 MR. ADKISON: Excuse me. I'll object
25 nonresponsive, your Honor.

1 A. No.

2 MR. ADKISON: That's all I have at this
3 time, Your Honor. He's subject to recall.

4 INDEPENDENT HEARING EXAMINER: Anything
5 further?

6 MR. JOHN C. HARDY: Just a couple.

7 INDEPENDENT HEARING EXAMINER: Okay.

8 REDIRECT EXAMINATION

9 BY MR. JOHN C. HARDY:

10 Q. Did anyone interfere with your investigation
11 regarding Mr. Alexander?

12 A. No, sir.

13 Q. Did you, to the best of your ability and
14 training, perform an investigation that you thought was
15 fair and impartial?

16 A. Yes, sir.

17 Q. Did Mr. Whit sell, either John Whit sell, the
18 father, or Gene Whit sell, the grandfather of Colton,
19 ever do anything to influence your decision regarding
20 this matter?

21 A. They did not.

22 Q. Would you have treated this student the same as
23 every other student?

24 A. Yes, sir.

25 Q. In fact, there are other students that were

1 involved; is that correct?

2 A. Correct.

3 Q. And their parents aren't -- grandparents aren't
4 on the school board?

5 A. No, sir.

6 Q. Doesn't make any difference to you?

7 A. Not to me.

8 MR. JOHN C. HARDY: Nothing further at
9 this time.

10 RE CROSS-EXAMINATION

11 BY MR. ADKISON:

12 Q. Well, you say that nobody did anything to
13 influence your decision. Certainly if you influenced
14 witnesses and their testimony and then feed those
15 witnesses to the decision-maker, that's an influence on
16 your decision?

17 A. I'm not aware that that took place.

18 Q. I didn't ask you that.

19 A. Okay.

20 Q. I asked you if it happened --

21 A. I guess it would -- I guess it would be if that
22 took place.

23 Q. And we now know, even though you denied it
24 earlier, that one of the very statements you have
25 indicates that there was contact between Mr. Whit sell

1 and the witness, wasn't there?

2 A. That's correct.

3 Q. And you previously denied that, didn't you?

4 A. Yes, sir. But there's no indications to when
5 that contact was made, whether -- whether it was before
6 or after I started my investigation, and I firmly
7 believe it was before.

8 Q. Excuse me. If you will just let me ask you a
9 question. It was before because it was before the
10 statement, wasn't it?

11 A. Yes, sir.

12 Q. So that -- whatever that answer was you just
13 gave about when, I mean, what we know is it was before
14 the statement, correct?

15 A. That's correct.

16 Q. Which means it was before your initial
17 interview with the witness unless you've interviewed
18 them times you haven't told me about.

19 A. No, I haven't. You're correct.

20 MR. ADKISON: That's all I have at this
21 time.

22 MR. JOHN C. HARDY: Your Honor, the only
23 thing I have at this time is we -- the petitioner would
24 reoffer Exhibit No. 5. We've done everything but read
25 it into the record on cross-examination.

1 INDEPENDENT HEARING EXAMINER: 5 is
2 admitted.

3 (Petitioner Exhibit 5 is admitted.)

4 MR. JOHN C. HARDY: Thank you. Nothing
5 further of this witness, Judge. The witnesses are down
6 in another room. May I go get the next witness?

7 INDEPENDENT HEARING EXAMINER: That's
8 fine. Who is the next witness?

9 MR. JOHN C. HARDY: Colton WhitSELL.

10 MR. ADKISON: Your Honor, while he's
11 doing that, may I go get a drink of water?

12 INDEPENDENT HEARING EXAMINER: Yeah.

13 MR. ADKISON: I'm dry.

14 MR. JOHN C. HARDY: Judge, this witness
15 has not been sworn.

16 INDEPENDENT HEARING EXAMINER: Okay. Mr.
17 WhitSELL, go ahead and spell your first and last name
18 for the court reporter.

19 MR. WHITSELL: C-o-l-t-o-n,
20 w-h-i-t-s-e-l-l.

21 INDEPENDENT HEARING EXAMINER: Raise your
22 right hand for me.

23 COLTON WHITSELL,
24 having been first duly sworn, testified as follows:

25 INDEPENDENT HEARING EXAMINER: And Mr.

1 whitsell, let me ask you, there's some air conditioning
2 in here, and the court reporter's taking everything
3 down, so please speak up so that all of us can hear you.
4 okay?

5 THE WITNESS: Yes, sir.

6 INDEPENDENT HEARING EXAMINER: Go ahead,
7 Mr. Hardy.

8 MR. JOHN C. HARDY: Thank you.

9 DIRECT EXAMINATION

10 BY MR. JOHN C. HARDY:

11 Q. Colton, would you state your name for the
12 record, please?

13 A. Colton whitsell.

14 Q. And are you a student at Troup ISD?

15 A. Yes, sir, I am.

16 Q. What's your -- what grade are you? What's your
17 classification?

18 A. I'm a sophomore.

19 Q. And is your father John Alexander -- excuse me
20 -- John whitsell?

21 A. Yes, sir, he is.

22 Q. Does he serve on the school board?

23 A. Yes, sir, he does.

24 Q. Does your -- is your grandfather Gene whitsell?

25 A. Yes, sir.

1 Q. Does he serve on the school board?

2 A. Yes, sir.

3 Q. Do you play football for Troup ISD?

4 A. Yes, sir.

5 Q. Were you on the football team this past fall?

6 A. Yes, sir.

7 Q. Was Coach Alexander your coach?

8 A. Yes, sir.

9 Q. Do you recall the date of October the 19th for
10 any reason?

11 A. Yes, sir, I do.

12 Q. Would you describe for the judge why you recall
13 October 19th as it relates to your football experience
14 at Troup?

15 A. That was the day that --

16 MR. ADKISON: I need to object that it
17 calls for a narrative and so it'll prevent me from
18 interjecting with a later objection of responsiveness if
19 we get too far.

20 INDEPENDENT HEARING EXAMINER: I'm going
21 to give it a little bit of latitude. We'll -- we'll cut
22 it off when we need to. Go ahead, Mr. Hardy.

23 Q. (BY MR. JOHN C. HARDY) Colton, what happened
24 to you on October the 19th?

25 A. That was the day that Coach Alexander struck

1 me.

2 Q. Was that at school?

3 A. Yes, sir, it was. It was during football
4 practice.

5 Q. During football practice. What did he strike
6 you with?

7 A. His hand.

8 Q. Where did he hit you?

9 A. Hit me across the face.

10 Q. Had you been acting out in any way?

11 A. No, sir. I was on a knee looking at Coach A.

12 Q. Was --

13 A. He was giving us our speech before practice.

14 Q. Did it surprise you that he hit you?

15 A. Yes, sir. It embarrassed me.

16 Q. Did it hurt?

17 A. Yes, sir, it did.

18 Q. Did you feel that it was done in a joking
19 manner?

20 A. No, sir, I did not.

21 Q. Did you later talk with your father about that?

22 A. Yes, sir, I did. It was the first thing we
23 discussed when I got in the car.

24 Q. Had the coach ever hit you before?

25 A. No, sir. It was the first time.

1 Q. What about the language of Coach Alexander?
2 Was it an appropriate type of language, or was it
3 profanity at the school?

4 A. Coach A has one of the foulest mouths I've ever
5 heard, sir.

6 Q. Did he use "GD," the Lord's name in vain when
7 he was yelling at the kids?

8 A. It was a minute-by-minute occurrence, sir.

9 Q. Did you hear him use the F bomb?

10 A. Yes, sir.

11 Q. On many occasions?

12 A. Yes, sir.

13 Q. Did you hear him addressing the students to get
14 your "F'n A" over here?

15 A. Yes, sir.

16 Q. Did you feel that that was appropriate?

17 A. No, sir, I did not.

18 Q. Was it a discussion between you and your
19 teammates that felt that Coach Alexander was out of
20 place with his language?

21 A. Yes, sir.

22 Q. Did you find him motivating?

23 A. No, sir, I did not. I find it degrading, and I
24 don't think it helped our morale.

25 Q. How would you describe the morale on the team?

1 A. It was pretty low. We didn't -- we didn't have
2 a motivating coach. We had a coach that tried to put us
3 down and make us angry all the time.

4 Q. Have you known Coach Alexander through family
5 or church relationships?

6 A. Yes, sir, I did. We went to church together.

7 Q. Were you out in any way to get Coach Alexander?

8 A. No, sir, I wasn't. I thought we had had a
9 pretty good relationship.

10 Q. Did you have a relationship where you thought
11 it would be all right for him to strike you?

12 A. No, sir.

13 Q. Did you talk with Mr. Stuart Bird about this
14 situation?

15 A. Yes, sir, I did.

16 Q. When you talked with Mr. Bird, who was in the
17 room with you?

18 A. It was Mr. Bird and our principal, Principal
19 David Smith.

20 Q. Did either one of those gentlemen try in any
21 way, in your opinion, to influence what you were giving
22 in the way of your statement?

23 A. No, sir.

24 Q. Do you, to this day, know why Coach Alexander
25 struck you?

1 A. No, sir. I have no idea.

2 Q. Are you afraid of Coach Alexander?

3 A. No, sir.

4 Q. Do you think that he treats the team members
5 appropriately?

6 A. No, sir, I do not.

7 Q. In your opinion as a team member, if Coach
8 Alexander came back to Troup ISD, could you play for
9 him?

10 MR. ADKISON: Objection, non -- that's
11 also speculation. That's outside the scope of this
12 hearing.

13 INDEPENDENT HEARING EXAMINER: Sustained.

14 Q. (BY MR. JOHN C. HARDY) Have you had any
15 contact with Coach Alexander since you were struck?

16 A. No, sir.

17 MR. JOHN C. HARDY: Pass the witness.

18 MR. ADKISON: Just a second, sir.

19 CROSS-EXAMINATION

20 BY MR. ADKISON:

21 Q. Colton, my name's Ron Adkison. I represent
22 Coach Alexander. Do you understand who I am and who I
23 represent?

24 A. Yes, sir.

25 Q. You understand you're under oath just like you

1 would be testifying in the courtroom?

2 A. Yes, sir.

3 Q. You said that in your opinion the team had
4 morale problems. When did you first notice morale
5 problems on the team?

6 A. About the first week of school, second week of
7 school.

8 Q. Okay. So that's still in scrimmage time,
9 right?

10 A. No, sir.

11 Q. First game? First game, first week of school?

12 A. Yes, sir.

13 Q. So week one. And this incident that you allege
14 occurred in what, week six?

15 A. Yes, sir.

16 Q. Now, in between that time, what was the
17 won-loss record?

18 A. Not very good.

19 Q. Was it 0-6, 1-5?

20 A. 1-5.

21 Q. Okay. So were you concerned about the morale
22 on the team as a player?

23 A. Yes, sir.

24 Q. Okay. And you said you had a discussion
25 between teammates about morale. Who did you discuss

1 morale with on the team?

2 A. Shane Thomas.

3 Q. Anyone else?

4 A. No, sir.

5 Q. All right. So as the record went to 1-5, did
6 you ever have any discussions with your father about the
7 morale on the team?

8 A. No, sir, I didn't.

9 Q. None whatsoever?

10 A. No, sir.

11 Q. Never asked why are we 1-5?

12 A. No, sir.

13 MR. JOHN C. HARDY: Object, asked and
14 answered.

15 INDEPENDENT HEARING EXAMINER: Sustained.

16 Q. (BY MR. ADKISON) So on October 19, 2016 [sic],
17 was this incident that you allege prior to practice?

18 A. No, sir. It was during practice.

19 Q. Okay. Did you finish the practice session?

20 A. Yes, sir, I did.

21 Q. Did you ask to be excused from any drills
22 because of what you alleged to have happened earlier?

23 A. No, sir.

24 Q. Did you seek any attention from the training
25 staff --

1 A. No, sir.

2 Q. -- for that which you allege to have occurred?

3 All right. When -- as I understand some
4 of the things I've been provided, this incident was
5 alleged to have occurred at a team meeting prior to the
6 start of actual contact drills?

7 A. No, sir.

8 Q. Okay. Tell me when it started. Tell me when
9 this talk by the coach was.

10 A. We go through our warm-ups and we do some light
11 hitting, and then Coach Alexander would call us up and
12 he'd talk to us and give his thoughts, and that's when
13 it happened.

14 Q. All right. Now, in relation to the end zone
15 and midfield, where was the team gathered at the time of
16 this?

17 A. About the 40 yard line.

18 Q. North or south? Toward the bus barn or the
19 golf course?

20 A. Golf course.

21 Q. So the south 40 yard line.

22 A. No. Is that south?

23 Q. Okay. So you're -- either way, it's the 40
24 yard line nearest the golf course, right?

25 A. Yes, sir.

1 Q. All right. And who was there? Varsity?
2 Junior Varsity? who?

3 A. We were all there that day.

4 Q. Okay. So it was JV and varsity, correct?

5 A. Yes, sir.

6 Q. The coach is on the field?

7 A. Yes, sir.

8 Q. Which coaches do you recall being on the field?

9 A. All of our normal coaches, Coach Leach, Coach
10 Lawson, Coach Ross, Coach Thomas, Coach Eastman, Coach
11 Alexander, Coach Greer.

12 Q. Coach Greer was there?

13 A. Yes, sir, he was.

14 Q. Where was Coach Greer standing in relation to
15 Coach Alexander?

16 A. I don't recall.

17 Q. All right. If you're gathered on the 40 yard
18 line, I take it the team is in front of and to the side
19 of Coach Alexander?

20 A. Yes, sir.

21 Q. For instance, were they in a circle around
22 Coach Alexander, or was everybody sort of in a huddle?

23 A. We were in a semicircle.

24 Q. Semicircle in front of him? And which way was
25 Coach Alexander facing? Was he facing the golf course,

1 facing --

2 A. He was facing a little to the home --
3 catty-corner to the home stands.

4 Q. Okay. The coaches that you knew were there,
5 were they standing behind him, in front of him, to the
6 side of him? where were they?

7 A. Some of them had walked off to go to their
8 stations. I think some of them were standing behind us.

9 Q. All right. And were you on Coach Alexander's
10 left or right?

11 A. His left.

12 Q. Who was immediately to his right?

13 A. I don't remember.

14 Q. Okay. What piece of equipment did you have on?

15 A. I had on my shoulder pads, and that was it.

16 Q. Did you have on shorts? Shoes?

17 A. Yes, sir, I did.

18 Q. Did you have a headband?

19 A. Yes, sir.

20 Q. What kind of headband?

21 A. It was an Under Armour headband.

22 Q. Made out of terry cloth and elastic?

23 A. I don't remember.

24 Q. Okay. What color was it?

25 A. It was a Texas flag.

1 Q. Let's see. Your position on the football team
2 was wide out?

3 A. I have multiple.

4 Q. Okay. What were your positions?

5 A. At one point I played wingback. At one point I
6 played wide receiver. I played quarterback for a week.
7 Played tight end. I played defensive end, defensive
8 tackle.

9 Q. Okay. Anyplace else?

10 A. No, sir.

11 Q. Were you a starter?

12 A. Yes, sir, I was.

13 Q. Okay. Did you start at each of these
14 positions?

15 A. No. I did not start at defensive end,
16 defensive tackle, tight end, and quarterback.

17 Q. All right. In the meeting at the 40 yard line
18 on October 19th, did Coach Alexander discuss particular
19 players and their performance the week before?

20 A. I don't recall.

21 Q. At the time Coach Alexander began to speak,
22 were you laughing?

23 A. No, sir, I was not.

24 Q. Did you ever laugh at any time?

25 A. No, sir.

1 Q. Coach Alexander ever remove your headband?

2 A. Yes, sir, he did.

3 Q. And did he pop you on the head with it?

4 A. No, sir, he did not.

5 Q. Did he drop the headband?

6 A. No, sir. He put it in his pocket.

7 Q. After the meeting was over, did you get the
8 headband back?

9 A. Yes, sir, I did.

10 Q. At this meeting, was Coach Alexander telling
11 any jokes or anything that would have been funny?

12 A. I don't remember.

13 Q. What I'm trying to figure out is if it would
14 have been appropriate in this context for you to have
15 been laughing.

16 A. No, sir. I do not believe it would have been.

17 Q. Now, how long after the incident you alleged
18 did this meeting continue?

19 A. Two or three minutes.

20 Q. Who is the next person who either mentioned
21 this to you or that you mentioned it to?

22 A. I don't understand.

23 Q. Okay. The incident you allege occurs, meeting
24 breaks up, you start on practice. Who's the next person
25 who either mentioned this incident that you allege to

1 you or that you mentioned that incident to yourself?

2 A. Shane Thomas.

3 Q. Now, that's the same person that you had
4 previously been discussing morale with, correct?

5 A. Yes, sir.

6 Q. Okay. After Shane Thomas, who's the next
7 person that either you mentioned this to or that
8 mentioned it to you?

9 A. My father.

10 Q. Okay. So do you deny under oath that you had a
11 conversation about this with Tray Wade?

12 A. I don't remember that conversation.

13 Q. Now, did -- after -- once you alleged it
14 occurred, did you have any visible marks on your face?

15 A. Yes, sir. My face was red.

16 Q. Was that from being called out by a coach, or
17 was that a fingerprint or something?

18 A. No, sir. Only one side of my face was red, the
19 side that he hit me on.

20 Q. Okay. And did any of the trainers attempt to
21 assist you after that?

22 A. No, sir. I just put my helmet on. They never
23 saw it.

24 Q. Were they getting the water for the -- that was
25 the day the waterline was broken, wasn't it?

1 A. Yes, sir.

2 Q. So were they -- the trainers all down getting
3 the water?

4 A. Yes, sir.

5 Q. Every one of them?

6 A. Only -- I believe Sam McMullen was on the
7 field.

8 THE REPORTER: I'm sorry. Who?

9 A. Sam McMullen Hamilton.

10 Q. (BY MR. ADKISON) Now, have you talked to Sam
11 Hamilton about this incident?

12 A. Yes, sir, I have.

13 Q. When did you first talk to her?

14 A. The day after it happened.

15 Q. And did you initiate that conversation or did
16 she?

17 A. No, sir. She did.

18 Q. Did she tell you that she had talked to your
19 father?

20 A. No, sir.

21 Q. All right. When did -- where did the
22 conversation with Ms. Hamilton take place?

23 A. In the hallway outside of her classroom.

24 Q. Where is her classroom?

25 A. It is in the -- it's by Ms. Agnew's classroom.

1 There are only two classrooms down there.

2 Q. Ms. Agnew teaches what?

3 A. Cooking, culinary.

4 INDEPENDENT HEARING EXAMINER: I'm sorry.

5 Ms. who?

6 MR. ADKISON: Agnew.

7 Q. (BY MR. ADKISON) Okay. Did you understand
8 that she'd had conversations with Ms. Agnew about this
9 alleged incident?

10 A. No, sir. That wasn't discussed.

11 Q. Who brought the subject up? You or Ms.
12 Hamilton?

13 A. She called me out into the hallway.

14 Q. Okay. And so what time of day would this have
15 been?

16 A. This was at the beginning of our class period,
17 so 12:23.

18 Q. On Wednesday?

19 A. Yes.

20 Q. Now, while you were at -- on Tuesday night,
21 which would have been the night, I believe, of October
22 19th, did your father take any actions after you and he
23 talked about this?

24 A. No, sir.

25 Q. When you got home, did he bring it -- or when

1 you got in the car, did he bring it up or did you bring
2 it up?

3 A. I brought it up.

4 Q. Now, did you hear your father make any phone
5 calls to any other students?

6 A. No, sir.

7 Q. Did you know that he did?

8 A. No, sir, I did not.

9 Q. Now, were you interviewed by the
10 superintendent?

11 A. Yes, sir, I was.

12 Q. What date?

13 A. The day immediately following the incident.

14 Q. So on Wednesday?

15 A. Yes, sir.

16 Q. What time of day?

17 A. I believe I was called out of Spanish class, so
18 anywhere from 11:27 to 12:19.

19 Q. And who brought the subject of this incident up
20 in that meeting?

21 A. The superintendent.

22 Q. And was anybody present besides you and the
23 superintendent during that meeting?

24 A. David Smith.

25 Q. Is that the high school principal?

1 A. Yes, sir, he is.

2 Q. All right. And did you give them a statement
3 at that time?

4 A. Yes, sir, I did.

5 Q. Did you write a statement at that time?

6 A. No, sir, I didn't.

7 Q. When were you first asked to write a statement?

8 A. When I met with Mr. Hardy.

9 Q. And when would that have been?

10 A. I don't remember the exact date.

11 Q. Did you write a statement that day?

12 A. I don't remember.

13 Q. Well, you didn't write a statement until after
14 you met John Hardy, correct?

15 A. Possibly. I don't --

16 Q. Did you write one before?

17 A. I don't remember, sir. I don't remember.

18 Q. Did you talk to anybody about this incident
19 between -- let's see. We'll go at it this way. Make it
20 easier for you.

21 About this incident that you allege, you
22 talked to your dad, you've talked to Sam Hamilton, and
23 you've talked in the presence of David Smith, and later
24 you talked to Mr. Hardy. You with me?

25 A. Yes, sir.

1 Q. Have you talked to anybody else?

2 A. I talked to my godmother.

3 Q. Who is?

4 A. Ms. Agnew.

5 Q. Ms. Agnew?

6 A. Yes, sir.

7 Q. And that's the lady who Sam Hamilton, they're
8 the only two teachers in that building, correct?

9 A. They're the only two teachers in that section
10 of the building, yes.

11 Q. Okay. So when did you talk to Ms. Agnew?

12 A. About a week after.

13 Q. Who brought the subject up in that
14 conversation? You or Ms. Agnew?

15 A. Ms. Agnew.

16 Q. How did Ms. Agnew know about this?

17 A. I don't know. That wasn't discussed.

18 Q. Did she know about the allegations?

19 A. Yes, sir, she did.

20 Q. Who's currently the athletic director?

21 A. Coach John Eastman.

22 Q. Does Coach Eastman have a son about your age?

23 A. Yes, sir.

24 Q. Are y'all friends?

25 A. I wouldn't say we're friends necessarily.

1 we're not in the same grade. We don't talk much.

2 Q. Are you in any other sports --

3 A. I play basketball and baseball.

4 Q. Let me finish. With Coach Eastman's son.

5 A. I played basketball with him.

6 Q. Now, coaches are -- have not only the right,
7 but probably the duty to instill discipline on their
8 team, correct?

9 A. Yes, sir.

10 Q. And now many years have you played varsity?

11 A. Just one.

12 Q. This is your first varsity experience?

13 A. It was my first varsity football experience. I
14 played varsity baseball as a freshman.

15 Q. Let me ask you this: If a student is
16 disruptive in a class, is the teacher allowed to
17 discipline the student?

18 A. Yes, sir, she is.

19 Q. And the Troup Independent School District
20 policy actually allows corporal punishment, correct?

21 A. I don't know.

22 Q. Well, have you seen people to be taken out to
23 be given licks or given licks or --

24 A. No, sir.

25 MR. ADKISON: That's all I have at this

1 time.

2 MR. JOHN C. HARDY: A couple more
3 questions. Thank you, Judge.

4 REDIRECT EXAMINATION

5 BY MR. JOHN C. HARDY:

6 Q. Colton, the headband incident that Mr. Adkison
7 asked you about, was that before or after you were hit?

8 A. That was before.

9 Q. Okay. And what would you say was the length of
10 time between the headband incident removal and the time
11 you were struck by Coach Alexander?

12 A. Two and a half to five minutes.

13 Q. You were asked were you laughing or something.
14 Was there something funny about being hit?

15 A. No, sir. There was nothing funny.

16 Q. Was Tray Wade close by to you?

17 A. Yes, sir. He was directly to my right.

18 Q. Did you see Coach Alexander strike him?

19 A. Yes, sir, I did.

20 Q. There was -- gave testimony about who brought
21 up the situation, whether it was you to your father or
22 Ms. Agnew to you or whatever. Would it be a fair
23 statement that this was a good bit of talk about what
24 was going on around school about the kids and being
25 hit?

1 A. Yes, sir, it was.

2 Q. So it wasn't unusual for this to be a
3 discussion or a topic that Coach Alexander had struck
4 more than one student that day?

5 A. No, sir, it was not.

6 Q. Do you know Blake Attaway?

7 A. Yes, sir, I do.

8 Q. Was he another student that was hit that day?

9 A. Yes, sir, he was.

10 Q. Do you know where he was hit?

11 A. He was hit on the back of the head.

12 Q. Who hit him?

13 A. Coach Alexander.

14 MR. ADKISON: Object to hearsay.

15 INDEPENDENT HEARING EXAMINER: Sustained.

16 Q. (BY MR. JOHN C. HARDY) Did you see Coach
17 Alexander hit him?

18 A. Yes, sir, I did.

19 Q. With your own eyes?

20 A. Yes, sir, I did.

21 Q. Was there any doubt what you saw?

22 A. No, sir, there was not.

23 Q. Did Coach Alexander strike him?

24 A. Yes, sir, he did.

25 Q. Do you know of any faculty members, coaches

1 anybody on staff at Troup ISD besides Coach Alexander
2 who goes around slapping kids?

3 A. No, sir. It was a very isolated incident.

4 Q. Do you believe that it would be -- ever be
5 correct for discipline or any reason for one of your
6 teachers or coaches to slap you?

7 MR. ADKISON: I object. Speculation.
8 Qualification.

9 MR. JOHN C. HARDY: I think he can answer
10 what he thinks --

11 INDEPENDENT HEARING EXAMINER: I think
12 you opened the door on that by asking him earlier about
13 teacher discipline in the classroom. Go ahead.

14 MR. JOHN C. HARDY: Thank you.

15 A. No, sir. I believe it's unethical, immoral,
16 and illegal in any setting.

17 MR. JOHN C. HARDY: Pass the witness.

18 RECROSS-EXAMINATION

19 BY MR. ADKISON:

20 Q. Well, it's not illegal to strike a student if
21 it's -- if the disciplinary code allows corporal
22 punishment, is it? Are you saying that TISD School
23 Board policy is illegal, immoral, and unethical --

24 MR. HARDY: Your Honor, I'm going --

25 Q. (BY MR. ADKISON) -- in regards to corporal

1 punishment.

2 MR. HARDY: Your Honor, I'm going to
3 object. That's a mischaracterization of what the policy
4 would be on corporal punishment.

5 INDEPENDENT HEARING EXAMINER: Sustained.

6 Q. (BY MR. ADKISON) So, I mean, you made the
7 blanket statement under oath that it's always, in every
8 situation, immoral, illegal, and unethical?

9 MR. JOHN C. HARDY: Your Honor, I'm going
10 to object again to a mischaracterization question. The
11 question is whether or not it was ever appropriate to
12 slap a student, not use corporal punishment. That would
13 be under the school district disciplinary policy.

14 MR. ADKISON: It's not the question. It
15 was the answer.

16 INDEPENDENT HEARING EXAMINER: Well, but
17 his answer was to that question. Rephrase your
18 question.

19 Q. (BY MR. ADKISON) You don't even know whether
20 or not Troup ISD allows its students to be hit with a
21 board under certain circumstances, do you?

22 A. Sir, I try not to associate myself with people
23 that would be in that situation, so I don't have any
24 experience with it.

25 MR. ADKISON: Well, I appreciate that,

1 and I'll object to it as nonresponsive.

2 INDEPENDENT HEARING EXAMINER: Sustained.

3 Q. (BY MR. ADKISON) You've testified under oath
4 in this case and you don't even know if it's within the
5 policies of the Troup Independent School District for a
6 teacher to hit a student with a board, do you?

7 A. Sir, I've never seen a teacher hit someone with
8 a board, so I wouldn't know.

9 Q. So is the simple answer to my question, no, I
10 don't know?

11 A. Yes, sir.

12 MR. ADKISON: That's all I have. Thank
13 you very much.

14 MR. JOHN C. HARDY: Nothing further of
15 this witness.

16 INDEPENDENT HEARING EXAMINER: Okay. You
17 may step down. Let me -- you weren't in here earlier, I
18 don't think, so let me tell you, you -- you may not
19 discuss your testimony with anyone else today, any other
20 students, any other adults. Just keep it -- just keep
21 it to yourself. Once -- once the hearing is completely
22 concluded, either today or Wednesday, then at that point
23 you're -- you're free to discuss it. But at this point,
24 don't have any conversations with anyone about what you
25 were asked or the answers that you were giving. Okay?

1 THE WITNESS: Yes, sir.

2 INDEPENDENT HEARING EXAMINER: Thank you.

3 MR. JOHN C. HARDY: Ready for the next
4 witness?

5 INDEPENDENT HEARING EXAMINER: Yeah.

6 Let's --

7 MR. JOHN C. HARDY: Take a break?

8 INDEPENDENT HEARING EXAMINER: Yeah.
9 Let's go off the record and take a five- or ten-minute
10 morning break.

11 MR. JOHN C. HARDY: Thank you.

12 (Recess taken.)

13 INDEPENDENT HEARING EXAMINER: Back on
14 the record.

15 MR. JOHN C. HARDY: He has not been
16 sworn.

17 INDEPENDENT HEARING OFFICER: He has not?

18 MR. JOHN C. HARDY: No, sir.

19 INDEPENDENT HEARING OFFICER: Okay.
20 Please raise your right hand.

21 BLAKE ATTAWAY,
22 having been first duly sworn, testified as follows:

23 INDEPENDENT HEARING EXAMINER: Okay.
24 Give me your name.

25 THE WITNESS: Blake Attaway.

1 INDEPENDENT HEARING EXAMINER: Spell your
2 last name for the court reporter.

3 THE WITNESS: A-t-t-a-w-a-y.

4 INDEPENDENT HEARING EXAMINER: All right.
5 Mr. Hardy, go ahead.

6 MR. JOHN C. HARDY: Thank you.

7 DIRECT EXAMINATION

8 BY MR. JOHN C. HARDY:

9 Q. Blake, would you state your name for the
10 record, please?

11 A. Blake Attaway.

12 Q. And are you a student at Troup ISD?

13 A. Yes, sir.

14 Q. And what is your grade or classification?

15 A. I am in the 12th grade.

16 Q. Finishing up this year?

17 A. Yes, sir.

18 Q. Do you play sports at Troup ISD?

19 A. Yes, sir, I do.

20 Q. Do you play football?

21 A. Yes, sir.

22 Q. Do you -- did you play this year?

23 A. Yes, sir.

24 Q. And were you at practice on October the 19th of
25 this year?

1 A. Yes, sir.

2 Q. I guess actually it'd be 2015.

3 A. Yes, sir.

4 Q. During that practice, did anything take place
5 that was unusual and inappropriate in your opinion?

6 A. Yes, sir.

7 Q. And were you hit or struck by a Coach
8 Alexander?

9 A. Yes, sir.

10 Q. Were you doing anything to offend him that you
11 know of?

12 A. No, sir.

13 Q. Where did he hit you?

14 A. In the back of the head.

15 Q. What did he hit you with?

16 A. His hand.

17 Q. Was it surprising to you?

18 A. Yes, sir.

19 Q. Did it hurt?

20 A. A little bit.

21 Q. Was it an embarrassment?

22 A. Yes, sir.

23 Q. Did you see Coach Alexander that day strike any
24 other student?

25 A. Yes, sir.

1 Q. And who?

2 A. Colton whitsell.

3 Q. And how did Coach Alexander hit Colton
4 whitsell?

5 A. With his hand.

6 Q. Where did he strike him?

7 A. On the head.

8 Q. And would you describe that as a slap?

9 A. Yes, sir.

10 Q. Did you see Coach Alexander push down Tray?

11 A. Yes, sir.

12 Q. Were those strikes, touches done in a
13 disciplinary way, in your opinion?

14 A. No, sir.

15 Q. Did you find it offensive?

16 A. Yes, sir.

17 Q. Did you think they were appropriate in any
18 way?

19 A. No, sir. I did not think they were
20 appropriate.

21 Q. Did you have an opportunity to give a written
22 statement about what happened on that day?

23 A. Yes, sir, I did.

24 MR. JOHN C. HARDY: May I approach?

25 INDEPENDENT HEARING EXAMINER: Yes.

1 MR. JOHN C. HARDY: I don't know what
2 happened to all of our exhibits that were --

3 INDEPENDENT HEARING EXAMINER: I think
4 they're right here.

5 MR. JOHN C. HARDY: I got it.

6 INDEPENDENT HEARING EXAMINER: Okay.

7 Q. (BY MR. JOHN C. HARDY) I'm going to hand you
8 what's been marked as Petitioner's Exhibit No. 2. Do
9 you recognize that?

10 A. Yes, sir.

11 Q. Is that an exhibit that you prepared at the
12 direction of Mr. Stuart Bird, superintendent?

13 A. Yes, sir, it is.

14 Q. Does it set forth what took place in your
15 opinion and in your own handwriting on that date of
16 October the 19th?

17 A. Yes, sir.

18 Q. Would you read that statement for the record,
19 please?

20 A. All right. On --

21 Q. Actually -- excuse me. Actually, at this
22 point, I would like to offer that exhibit.

23 INDEPENDENT HEARING EXAMINER: Any
24 objections?

25 MR. ADKISON: Rather than have him read

1 it, I'll just let them admit it.

2 MR. JOHN C. HARDY: I understand, but I'm
3 asking the witness to read that statement.

4 INDEPENDENT HEARING EXAMINER: Exhibit 2
5 is admitted.

6 (Petitioner Exhibit 2 is admitted.)

7 Q. (BY MR. JOHN C. HARDY) You now -- Blake, if
8 you would read that statement for the record, please.

9 A. All right.

10 MR. ADKISON: Your Honor, I'm going to
11 object. The exhibit is in evidence, and the reading
12 from it aloud is cumulative and not -- I mean, it's
13 duplicative of a matter already in evidence.

14 MR. JOHN C. HARDY: I think that he can
15 be allowed to give his statement and talk about the
16 investigation that was -- he was involved in.

17 MR. ADKISON: It's all in the statement.
18 It's inclusive of the statement, reading a piece of
19 paper that's in evidence.

20 INDEPENDENT HEARING EXAMINER: It's not a
21 jury trial, so the fact that it's cumulative doesn't
22 matter. If -- if you don't want him to read it, that's
23 fine. We'll take time and I'll read it, and then -- and
24 then it'll be in. But either way the exhibit is
25 admitted.

1 MR. ADKISON: Sure. And that's what I'm
2 saying. It's not a jury trial, and I think you can read
3 it as well as he can read it out loud to you.

4 INDEPENDENT HEARING EXAMINER: Then give
5 me a minute, Mr. -- Mr. Hardy, and I will read it.

6 MR. JOHN C. HARDY: Thank you, Judge.
7 Thank you.

8 INDEPENDENT HEARING EXAMINER: And now
9 that I've read it, I have a couple of questions that
10 need to be clarified, so I'll just ask the question.

11 Mr. Attaway, if you'll look about halfway
12 down on the statement, there's a -- there's a sentence
13 that starts, "Then there was also." Do you see that?
14 The line begins "any water," and then it says --

15 THE WITNESS: "There was also a halftime
16 speech at Frankston"?

17 INDEPENDENT HEARING EXAMINER: Yes. Go
18 ahead and read -- read that sentence for me.

19 THE WITNESS: All right. (Reading.)
20 There was also a halftime speech at Frankston that was
21 very uncalled for. He went on to say that we were
22 gutless and pathetic and other things when the score was
23 only 14-10.

24 INDEPENDENT HEARING EXAMINER: Okay.
25 Thank you.

1 Q. (BY MR. JOHN C. HARDY) Blake, your statement
2 in the first four or five lines, it talks about what you
3 observed. A moment ago you stated that you saw Coach
4 Alexander strike Colton in the head. Your state -- your
5 statement says face.

6 A. Yes, sir.

7 Q. Was it above the shoulders?

8 A. Yes, sir.

9 Q. Okay. Did you observe Colton laughing or doing
10 something inappropriate before he was struck?

11 A. No, sir, I did not.

12 Q. Did you see Coach Alexander remove a headband
13 from Colton Whitsett?

14 A. Yes, sir, I did.

15 Q. Is this slap in the face or hit to the head the
16 same incident as removing the headband?

17 A. Yes, sir. I believe so.

18 Q. Did you talk with Colton about this situation?

19 A. No, sir, I did not.

20 Q. Was it a situation where the student body, in
21 particular the football team, was talking about Coach
22 Alexander's behavior?

23 MR. ADKISON: Object to hearsay.

24 INDEPENDENT HEARING EXAMINER: Sustained.
25 Rephrase.

1 Q. (BY MR. JOHN C. HARDY) Did you participate in
2 any conversations or did you personally hear
3 conversations and discussions about Coach Alexander's
4 behavior?

5 A. No, sir. I haven't heard personally from any
6 player. I just kind of keep to myself.

7 Q. Okay. Did you observe Coach Alexander using
8 derogatory comments or curse words?

9 A. Yes, sir.

10 Q. Was that a frequent occurrence?

11 A. Yes, sir.

12 Q. In your own mind, was it an opinion -- in your
13 own opinion, was it a motivator for you?

14 A. No, sir.

15 Q. Did you find it offensive?

16 A. Sometimes, yes.

17 MR. JOHN C. HARDY: That's all I have of
18 this witness at this time.

19 CROSS-EXAMINATION

20 BY MR. ADKISON:

21 Q. Blake, I'm Ron Adkison. I'm Coach Alexander's
22 lawyer. Do you understand who I am and who I represent?

23 A. Yes.

24 Q. You understand that you're testifying under
25 oath here just like you would be in a courtroom?

1 A. Yes.

2 Q. Did you take freshman Pre-AP English?

3 A. I'm not sure. Probably, yes, sir.

4 Q. Do you recall a book that you were required to
5 read called "what they Carry"?

6 A. No, sir.

7 Q. Where -- we've had some testimony already, so
8 I'll try to cut to the chase, but if I say something
9 that's wrong, correct me. Having a team meeting
10 somewhere on the 40 yard land toward the country club.
11 Everybody's in circle -- semicircle around Coach
12 Alexander. He's facing catty-corner toward the --
13 probably at the pro shop of the golf course as opposed
14 to the No. 1 tee and --

15 A. I think he was -- he was facing more towards
16 the press box.

17 Q. The home field press box?

18 A. Yes, sir.

19 Q. Okay. Which would have him sitting backward?

20 A. He'd be facing the golf course, or not facing,
21 but his back would be to the golf course.

22 Q. Okay. Now, in that time frame, you saw him --
23 he was talking, and you say that he hit you on the back
24 of the head?

25 A. Yes, sir.

1 Q. And I think you said -- you said that he hit
2 Colton WhitSELL on the head?

3 A. Uh-huh.

4 Q. And that you would term that as a slap?

5 A. Yes, sir.

6 Q. The contact with the back of your head, was
7 that a slap or --

8 A. Yes, sir, it was.

9 Q. Okay. Now, have you ever heard the expression
10 "slap somebody on the back"?

11 A. Not really.

12 Q. Okay. But you didn't talk to Colton about
13 this?

14 A. No, sir. I have not talked to Colton about
15 this incident.

16 Q. Okay. And did you -- did you ever talk to Trey
17 about this?

18 A. No, sir. I have not talked to Trey about this.

19 Q. Do you know whether or not Trey talked to
20 Colton about this?

21 A. No, sir, I do not.

22 Q. Okay. Now, when is the first time that you
23 engaged in a conversation with anybody about what went
24 on on the field on October the 19th?

25 A. Probably after practice with my friends.

1 Q. Who?

2 A. Lane Smith.

3 Q. Lance Smith?

4 A. Lane Smith.

5 Q. Oh, Lane Smith. Is Lane Smith on the football
6 team?

7 A. Yes, sir.

8 Q. Okay. And where did this conversation take
9 place?

10 A. Probably at my -- probably just outside the
11 field house or back at my house once we got home from
12 practice.

13 Q. So he came over to your house maybe when
14 practice was over?

15 A. Yes, sir.

16 Q. What position do you play?

17 A. I played fullback and outside line backer.

18 Q. After Lane Smith, who's the next person you
19 talked to?

20 A. Probably my dad.

21 Q. Did your dad advise you to take any action, or
22 did he call anybody?

23 A. No, sir, he did not.

24 Q. Was your dad a football player?

25 A. Sir?

1 Q. Did your dad play ball when he was in school?

2 A. I think he did freshman year, but after that I
3 don't think he ever played football again.

4 Q. Did he play football, basketball, baseball or
5 anything?

6 A. He played golf.

7 Q. After your dad, who's the next person you
8 talked to or that talked to you, either one?

9 A. Probably just my brother, Bryce.

10 Q. After that?

11 A. That's probably about it.

12 Q. Okay. Well, at some point in time you gave a
13 statement.

14 A. Yes, sir.

15 Q. Okay. So after Bryce, you had to have talked
16 to somebody else.

17 A. I talked to Mr. Smith and Mr. Bird in
18 Mr. Smith's office.

19 Q. Was anybody else present while you were talking
20 to them?

21 A. No, sir.

22 Q. All right. What -- when would that have been?

23 A. That was the -- it was either Tuesday or
24 Wednesday after that Monday practice.

25 Q. Do you remember which one?

1 A. No, sir, I do not.

2 Q. Morning or afternoon?

3 A. It was morning.

4 Q. And is that the time in which you gave a
5 statement?

6 A. Yes, sir, it was.

7 Q. Okay. So if your statement's dated 10/22/15,
8 that would be the date that you first talked to anybody
9 in administration?

10 A. Yes, sir, it would be.

11 Q. And so the 19th was on Monday?

12 A. I'm not too -- not too sure on the date.

13 Q. Okay. Let's look. Okay.

14 MR. ADKISON: May I approach just so I
15 can show him the calendar?

16 INDEPENDENT HEARING EXAMINER: (Moving
17 head up and down.)

18 Q. (BY MR. ADKISON) Here's mine. It shows the
19 19th being a Monday and the 22nd being a Thursday.

20 A. Okay.

21 Q. Does that sound right?

22 A. Yes, sir.

23 Q. So do you know what date Coach Alexander was
24 suspended on?

25 A. I believe it was the very next day, so it would

1 have been the 20th.

2 Q. He was suspended the day after it happened?

3 A. Either the day after or either the Tuesday or
4 Wednesday.

5 Q. So if he was suspended on Tuesday or Wednesday,
6 then your intimation on the 22nd couldn't have been any
7 sort of a factor or even considered in the decision to
8 suspend him, could it?

9 A. (No verbal response.)

10 Q. Easy question.

11 A. Guess not.

12 Q. Tuesday and Wednesday comes before Thursday,
13 right?

14 A. Yes, sir.

15 Q. So it automatically falls from that, then, that
16 your statement on October the 22nd could not have been
17 even considered if the suspension had already occurred
18 at the time it was given, could it?

19 A. I don't think so.

20 Q. Now, had you heard any dissatisfaction before
21 this accident about the won-loss record for Troup for
22 this year?

23 A. No, sir.

24 Q. I got a question about your statement. If
25 you'll look --

1 A. Okay.

2 Q. What's that word?

3 A. Vividly.

4 Q. Now, did I understand that that example about
5 the water break --

6 A. Uh-huh.

7 Q. -- is supposed to be an example of a racial
8 statement?

9 A. Yes, sir.

10 Q. And the statement is, somebody wants to take a
11 water break and Coach A says, we're going back to the
12 old days where you don't get a break for any water.

13 A. Uh-huh.

14 Q. That's the only statement, correct?

15 A. Right.

16 Q. Before you gave this statement as a basis for
17 termination of Coach Alexander, did anybody ever talk to
18 you about how we used to practice back in the day with
19 one water break every two hours?

20 A. No, sir.

21 Q. I mean, that statement doesn't have a single
22 word in it. It doesn't have a derogatory racial
23 reference. All it says is we're going to go back to old
24 days when we didn't take a break for getting water,
25 right?

1 A. Correct.

2 Q. And this -- this is all asked of you after
3 Coach Alexander's already been suspended, correct?

4 A. Yes, sir.

5 Q. Now, have you ever had any training in
6 psychology?

7 A. No, sir.

8 Q. You ever had any training in -- let's see.
9 When I took it, it was called Theory of Coaching
10 Football.

11 A. Huh-uh.

12 Q. So you're not familiar with whether or not
13 coaches are even taught at times to use negative
14 reinforcement?

15 A. No, sir.

16 Q. The remainder of this statement talks about --
17 he said we were gutless and pathetic, was only 14-10.
18 How did that game wind up?

19 A. I believe the final score was 35-17.

20 Q. Okay.

21 A. Not too sure.

22 Q. And then the Arp game is a rivalry game,
23 correct?

24 A. Yes, sir.

25 Q. Seven miles apart, right?

1 A. Yes, sir.

2 Q. Just like Garrison and Timpson. Big deal. And
3 what he was telling y'all was y'all are going to lose to
4 Arp?

5 A. Yes, sir.

6 Q. And you just thought that was a bad idea?

7 A. Yes, sir.

8 Q. Didn't motivate you at all?

9 A. No, sir, not at all.

10 Q. It didn't appeal to your pride in playing and
11 your pride of not getting beat?

12 A. No, sir.

13 Q. It didn't appeal to any sense of community or
14 rivalry or self-esteem that you might have?

15 A. No, sir.

16 Q. And y'all were 1-5?

17 A. Yes, sir.

18 Q. Now, the other thing is, is that in this
19 meeting, as I understand it for maybe the first time,
20 Coach Alexander started the meeting by pointing out
21 individual players and their failures to do their
22 assignments in the previous game; is that correct?

23 A. That I do not remember.

24 Q. Give me a second. And you told me everyone
25 that you've discussed this matter with, correct?

1 A. Yes, sir, I have.

2 Q. Did you ever discuss the matter with Mr. Hardy?

3 A. Yes, sir, I did.

4 Q. On how many occasions?

5 A. Twice or -- once or twice.

6 Q. Okay. Did you give a statement as soon as you
7 were contacted about being interviewed?

8 A. No, sir.

9 Q. Huh?

10 A. No, sir.

11 Q. Okay. Well, obviously you wouldn't have.
12 That's probably a bad question.

13 MR. ADKISON: That's all I have for now,
14 your Honor.

15 MR. JOHN C. HARDY: A couple, Judge.

16 REDIRECT EXAMINATION

17 BY MR. JOHN C. HARDY:

18 Q. Blake, do you testify under oath very often?

19 A. No, sir, I have not.

20 Q. A little bit nervous?

21 A. A little bit.

22 Q. You talked about some dates here on when Coach
23 A might have been suspended.

24 A. Yes, sir.

25 Q. And Mr. Adkison asked you about your statement

1 given on the 22nd of October. Would you argue with me
2 if I told you that the Coach Alexander was suspended on
3 Friday, the 23rd of October?

4 A. No, sir.

5 Q. You --

6 A. Yes, sir. I --

7 Q. You just don't remember the dates, do you?

8 MR. ADKISON: Excuse me. Could he
9 answer, your Honor?

10 A. I just know he was --

11 INDEPENDENT HEARING EXAMINER: Yeah. Let
12 him --

13 A. -- suspended --

14 INDEPENDENT HEARING EXAMINER: Hang on.
15 Hang on. Hang on. Hang on.

16 A. Yes, sir.

17 INDEPENDENT HEARING EXAMINER: Let him
18 finish his answer. Now you can answer.

19 A. Okay. I just know he was suspended before I
20 wrote this statement.

21 Q. (BY MR. JOHN C. HARDY) Before you read it or
22 wrote it?

23 A. Wrote it.

24 Q. Okay. Had you talked with Mr. Bird and
25 Mr. Smith about the actions of Coach Alexander?

1 A. I did the day I wrote this.

2 Q. Okay.

3 A. It was right after I talked to them.

4 MR. JOHN C. HARDY: Okay. I believe
5 that's all that I have.

6 MR. ADKISON: I have nothing further,
7 your Honor, at this time.

8 INDEPENDENT HEARING EXAMINER: Okay.
9 Mr. Attaway, you can return to class, is what we said,
10 right?

11 MR. JOHN C. HARDY: Afraid so.

12 INDEPENDENT HEARING EXAMINER: Let me
13 admonish you, though. You weren't in here earlier. You
14 are not to discuss your testimony with anyone.

15 THE WITNESS: Yes, sir.

16 INDEPENDENT HEARING EXAMINER: Okay.
17 You're not to discuss questions that you were asked.
18 You're not to discuss the answers that you gave. Once
19 this hearing is finished, either today or Wednesday,
20 then at that point you're free to discuss it.

21 THE WITNESS: Yes, sir.

22 INDEPENDENT HEARING EXAMINER: But for
23 today and through Wednesday, don't discuss it with
24 anyone. If anyone asks, you can say that you testified,
25 but you can't say anything beyond that.

1 THE WITNESS: Yes, sir.

2 INDEPENDENT HEARING EXAMINER: Okay. And
3 -- and at this point I would say that that includes your
4 parents. Okay?

5 THE WITNESS: Yes, sir.

6 INDEPENDENT HEARING EXAMINER: You can
7 tell them that -- that you testified, but tell them that
8 you're under orders from me not to discuss what was said
9 until after Wednesday. Okay?

10 THE WITNESS: Yes, sir.

11 INDEPENDENT HEARING EXAMINER: Thank you.

12 THE WITNESS: Thank you.

13 MR. JOHN C. HARDY: May I get my next
14 witness?

15 INDEPENDENT HEARING EXAMINER: Yes. Who
16 is your next witness?

17 MR. JOHN C. HARDY: Ms. Hamilton.

18 INDEPENDENT HEARING EXAMINER: Let's go
19 off the record for a second.

20 (Recess.)

21 INDEPENDENT HEARING EXAMINER: Back on
22 the record. Let me get your -- your full name, please.

23 MS. HAMILTON: Stephanie McMullen
24 Hamilton.

25 INDEPENDENT HEARING EXAMINER: Now, Ms.

1 Hamilton, just for my -- for my own purposes, because
2 I'm trying to keep everybody straight, do you --

3 MS. HAMILTON: I go by Sam.

4 INDEPENDENT HEARING EXAMINER: Sam.

5 Okay. Perfect. Let me get you to raise your right
6 hand.

7 STEPHANIE MCMULLEN HAMILTON,
8 having been first duly sworn, testified as follows:

9 INDEPENDENT HEARING EXAMINER: Go ahead,
10 Mr. Hardy.

11 MR. JOHN C. HARDY. Thank you, sir.

12 DIRECT EXAMINATION

13 BY MR. JOHN C. HARDY:

14 Q. Ms. Hamilton, for the record and the court
15 reporter, would you state your full name?

16 A. Stephanie McMullen Hamilton. I go by Sam.

17 Q. Thank you, ma'am. How are you employed?

18 A. I am the head athletic trainer for the district
19 at Troup Independent School District.

20 Q. And how long have you worked at Troup ISD as
21 the athletic director?

22 A. This is my sixth year.

23 Q. And misspoke. Athletic trainer.

24 A. Athletic trainer.

25 Q. Were you working for Troup ISD on the 19th of

1 October, 2015?

2 A. Yes.

3 Q. Do you remember that day for any reason?

4 A. Yes, sir.

5 Q. Did you observe Coach Alexander strike any
6 students?

7 A. Yes, sir.

8 Q. Did you observe Coach Alexander strike Colton
9 Whitsell?

10 A. Yes, sir, I did.

11 Q. Would you describe what you saw when he struck
12 Colton?

13 A. We were in our prepractice meeting. The boys
14 were taking a knee on the field, and the coaches and
15 myself were standing around the outside of the huddle,
16 and Coach Alexander was talking to the players about the
17 game the week prior against Arp, and sort of out of
18 nowhere he hit -- he slapped Colton across the face.

19 Q. Would you -- were you able to hear the slap?

20 A. Yes, sir, I was.

21 Q. How far away from the incident were you?

22 A. No more than ten yards, probably closer to --
23 between five and ten.

24 Q. But it was a pop that you heard?

25 A. Yes, sir.

1 Q. And not only did you hear it, but you saw it?

2 A. Yes, sir.

3 Q. Was Colton WhitSELL acting out in any way that
4 you saw before he was struck?

5 A. No, sir.

6 Q. Did you observe him to be laughing?

7 A. Not -- no, sir.

8 MR. JOHN C. HARDY: If I might approach
9 the witness.

10 INDEPENDENT HEARING EXAMINER: Yes.

11 Q. (BY MR. JOHN C. HARDY) Ms. Hamilton, I'm going
12 to show you what's been marked Petitioner's Exhibit No.
13 6. Can you identify that document?

14 A. Yes, sir. This is the statement that I wrote
15 on the 19th.

16 Q. Did you write it on the 19th, or is it --
17 that's the date that --

18 A. Oh, the date that it happened, yes, sir. I'm
19 sorry. I -- I wrote it on the 22nd.

20 Q. Of October?

21 A. Yes, sir.

22 Q. So about three days after the event?

23 A. Yes, sir.

24 Q. What caused you to write that statement?

25 A. The next day after practice I contacted Mr.

1 Bird, the superintendent, and told him that I needed to
2 speak with him because I wasn't comfortable with the
3 situation that had happened. So I contacted him, and he
4 had me write my statement for him at that time.

5 Q. Was this before Coach Alexander was suspended?

6 A. Yes, sir.

7 Q. Do you recall what day of the week that Coach
8 Alexander was suspended?

9 A. He wasn't at practice on Wednesday.

10 Q. Okay. Did he ever come back to practice after
11 that?

12 A. No, sir. I never saw him after that.

13 MR. JOHN C. HARDY: At this time, Judge,
14 we would offer Exhibit No. 6.

15 INDEPENDENT HEARING EXAMINER: Exhibit 6
16 is admitted.

17 (Petitioner Exhibit 6 admitted.)

18 MR. JOHN C. HARDY: Thank you.

19 Q. (BY MR. JOHN C. HARDY) Ms. Hamilton, did you
20 believe that the situation was serious?

21 A. Yes, sir, I did.

22 Q. Did you believe it was serious enough to report
23 it to CPS?

24 A. Yes, sir, I did. I called and filed a report
25 with CPS.

1 MR. ADKISON: Object to hearsay --

2 Q. (BY MR. JOHN C. HARDY) Did you --

3 MR. ADKISON: -- evidence.

4 INDEPENDENT HEARING EXAMINER: Overruled.

5 Q. (BY MR. JOHN C. HARDY) What did you report to
6 CPS?

7 A. I reported the -- the situation that during
8 practice Monday morning -- or Monday afternoon, I
9 apologize, Monday afternoon before practice that Coach
10 Alexander slapped Colton Whitsell and shoved another
11 player.

12 Q. Had you and Coach Alexander gotten along
13 reasonably well as employees of Troup ISD?

14 A. Yes, sir.

15 Q. Had you ever had any disagreements?

16 A. Yes, sir.

17 Q. Employees have disagreements?

18 A. Yes, sir.

19 Q. Did you -- do you recall an incident about
20 lightning and lightning strikes?

21 A. Yes, sir. We had a situation at a softball
22 playoff game that was off site at Whitehouse --

23 MR. ADKISON: Excuse me. This is not --
24 this isn't relevant to any issue that's been framed by
25 the notice letter, and I object to it.

1 MR. JOHN C. HARDY: I'll withdraw my
2 question if that'll make it easy. Thank you, Judge.

3 Q. (BY MR. JOHN C. HARDY) Did you also, on the
4 19th, see Coach Alexander strike any other student or
5 push a student around?

6 A. I saw him push Demontrae Wade over --

7 Q. And --

8 A. -- from a kneeling position.

9 Q. Was that done, from what you saw, in a playful
10 or joking manner?

11 A. It didn't seem so to me, no, sir. He seemed
12 upset.

13 MR. JOHN C. HARDY: May I approach, your
14 Honor?

15 INDEPENDENT HEARING EXAMINER: Yes.

16 Q. (BY MR. JOHN C. HARDY) Ma'am, I've put in
17 front of you three evaluation documents. Do you
18 recognize those?

19 A. Yes, sir, I do. They're my evaluations from
20 the last three seasons.

21 Q. Who prepared those documents?

22 A. The one that's labeled 20 and 21 were done by
23 Coach Alexander. The one that was -- is labeled 22 I
24 filled out and Coach Alexander signed.

25 Q. Are those records of your evaluations at Troup

1 ISD while employed under the directorship of Coach
2 Alexander?

3 A. Yes, sir.

4 MR. JOHN C. HARDY: We would offer at
5 this time, your Honor, 20, 21, and 22.

6 INDEPENDENT HEARING EXAMINER: They've
7 already been admitted.

8 MR. JOHN C. HARDY: Thank you.

9 Q. (BY MR. JOHN C. HARDY) What would you describe
10 as your relationship with Coach Alexander?

11 A. I mean, we had a relationship, a working
12 relationship. I enjoyed working for him for the most
13 part. We had disagreements on basically one point and
14 that was it. He -- just like any other employee, he
15 would get upset with me same as I would get upset with
16 situations, but it wasn't adversarial at all.

17 Q. Did you -- do you have any reason to want to
18 see Coach Alexander removed from his position as
19 athletic director at Troup ISD?

20 A. I don't have anything against Coach Alexander
21 personally. No, sir.

22 Q. During the time that you were a trainer and
23 working under Alexander's leadership, did you observe
24 him addressing any of the students or the team
25 inappropriately?

1 A. He used foul language on a regular basis.

2 Q. Did he use the "GD" when we was addressing the
3 kids?

4 A. Yes, sir.

5 Q. Did that happen on a regular basis?

6 A. Yes, sir.

7 Q. Did he drop the F bomb when he was yelling at
8 the kids?

9 A. Yes, sir.

10 Q. Did that happen on a regular basis?

11 A. Yes, sir.

12 Q. Did he address some of the other coaches and
13 you that way at times?

14 A. Yes, sir.

15 Q. Did you find that demeaning?

16 A. I didn't like it, no, sir.

17 Q. Did you feel it was inappropriate?

18 A. Yes, sir.

19 Q. Did you feel it was inappropriate to address
20 the students in that manner?

21 A. Yes, sir.

22 MR. JOHN C. HARDY: I pass this witness.

23 CROSS-EXAMINATION

24 BY MR. ADKISON:

25 Q. Ms. Hamilton, my name's Ron Adkison. I'm Coach

1 Alexander's attorney. Do you understand who I am and
2 who I represent?

3 A. Yes, sir.

4 Q. You understand you're testifying under oath
5 here?

6 A. Yes, sir.

7 Q. You said that the game a week before was the
8 Arp game?

9 A. From my memory, yes, sir. I could be wrong.

10 Q. All right. After you observed what you say you
11 observed, did you go to Colton Whitsell?

12 A. Not that afternoon, no.

13 Q. Well, did you go to him and see if he needed
14 any sort of medical attention?

15 A. He got slapped in the face. I didn't really
16 find that it needed medical attention.

17 Q. Well, you -- you contacted CPS. Did you
18 photograph his face to show it to CPS?

19 A. No, sir.

20 Q. That's one thing that's really handy in a CPS
21 allegation is -- is for photographs, aren't they?

22 A. I don't work for CPS. I don't know.

23 Q. Have you ever made a report to CPS before?

24 A. Yes, sir.

25 Q. How many times previously have you made a

1 report to CPS?

2 A. This was the second.

3 Q. Okay. So when did you contact CPS?

4 A. The following day.

5 Q. And would it surprise you that CPS has taken
6 absolutely no action about that?

7 MR. JOHN C. HARDY: I object to that. It
8 calls for a conclusion by Ms. --

9 INDEPENDENT HEARING EXAMINER: Sustained.

10 Q. (BY MR. ADKISON) But you're telling this
11 investigator that you made a report specifically to CPS,
12 giving the specific name of a child, specific name of
13 the adult, and the specific circumstances under which it
14 happened?

15 A. Yes, sir.

16 Q. And that would have been four months ago?

17 A. Yes, sir.

18 Q. Okay. Did you seek to offer any assistance to
19 Trey?

20 A. No, sir.

21 Q. Now, I believe you said Coach Alexander did not
22 make the Wednesday practice; is that correct?

23 A. Yes, sir.

24 Q. So did he coach Tuesday but not Wednesday?

25 A. Yes, sir.

1 Q. Okay. And what's the date of your statement?

2 A. The 22nd.

3 Q. Now, when did you first have a conversation
4 with Mr. Bird?

5 A. I spoke to him on the telephone the next
6 morning, on Tuesday, and we met on Wednesday. He wasn't
7 in the office on Tuesday.

8 Q. Okay. Did you not give a statement on the day
9 that you talked to him in the office?

10 A. I wrote it the next day, I believe, from the
11 date. It's dated the 22nd.

12 Q. So you weren't asked to give a statement on the
13 day that you spoke to Mr. Bird?

14 A. Not written. I spoke to him one-on-one in his
15 office.

16 Q. You and Mr. Bird have previously worked at
17 schools together other than Troup, correct?

18 A. Yes, sir.

19 Q. Where?

20 A. Jacksonville.

21 Q. And what was his position at Jacksonville?

22 A. When I was hired, he was the principal, and he
23 transitioned into the superintendent position when he
24 was hired.

25 Q. And then how did the trajectory of your being

1 in Jacksonville a little after he was superintendent?

2 A. He left as superintendent. I was in
3 Jacksonville for eight years.

4 Q. Okay. In what capacity?

5 A. I was the athletic trainer. I was the
6 assistant athletic trainer for seven years and the head
7 athletic trainer for one year.

8 Q. Now, I believe in answer to -- Mr. Hardy made a
9 statement that employees have disagreements.

10 A. Yes, sir.

11 Q. And you believe that, don't you?

12 A. Yes, sir.

13 Q. Is there anybody that you have worked with as
14 an athletic trainer where your official duties required
15 that, that you haven't had some disagreement with at
16 some time or the other?

17 A. Specifically athletic directors that I haven't
18 disagreed with?

19 Q. ADs, assistant coaches, other teachers.

20 A. I have worked with a few athletic directors
21 that I didn't have disagreements with, yes, sir.

22 Q. All right. But by and large, you agreed with
23 what Mr. Hardy said, the employees have disagreements?

24 A. Yes, sir.

25 Q. And an athletic director is a supervisor?

1 A. Yes, sir.

2 Q. And obviously, a supervisor's job is not to
3 just roll over and agree with what everybody acting
4 under his supervision decides they want to do, is it?

5 A. No, sir.

6 Q. Do you have job duties at Troup Independent
7 School District other than athletic trainer?

8 A. Yes, sir.

9 Q. What?

10 A. I teach classes.

11 Q. Which classes do you teach?

12 A. I teach sixth grade PE at the middle school and
13 a seventh grade elective class at the middle school.
14 And I teach a high school sports medicine class.

15 Q. Do you actually teach the sports medicine
16 class?

17 A. Yes, sir.

18 Q. Okay. At what time of day do you teach the
19 high school class?

20 A. My class starts at about 12:19 and goes to
21 1:11.

22 Q. Okay. What time do you teach the 7th grade
23 class?

24 A. My class goes from 10:00 -- no. I'm sorry.
25 Probably 10:45 'til -- it includes the lunch period, so

1 11:42, I believe is when it ends.

2 Q. And then your sixth grade class?

3 A. Right before that.

4 Q. Okay. Now, the day of this incident that you
5 reported to the superintendent, was that the day that
6 the water mains in Troup were down?

7 A. I believe so. They happen -- it happens kind
8 of regularly, so I don't know specifically.

9 Q. Well, isn't it true that Troup ISD dismissed
10 classes at noon that day?

11 A. That could have been one of the day -- I'm
12 sorry. I don't know specifically. That could have been
13 one of the days.

14 Q. So your responsibility as an athletic trainer
15 is, is one thing that we know is that athletes need to
16 be hydrated?

17 A. Yes, sir.

18 Q. Unlike the Neanderthal days when I played and
19 you got like one water break every two hours or
20 something, I mean athletes need to be hydrated.

21 A. Yes, sir.

22 Q. And if the water mains in Troup were broke,
23 then it's your job as the athletic trainer to make sure
24 that there's sufficient water for them to be hydrated.

25 A. Yes, sir.

1 Q. Okay. And what time did practice start that
2 day?

3 A. If we got out of 12:00, then we probably
4 started shortly after that.

5 Q. And you had duties up until that time, correct?

6 A. Yes, sir.

7 Q. Matter of fact, all morning your morning would
8 have been taken up with your other duties, correct?

9 A. Yes, sir.

10 Q. Now, did you personally see to it that the team
11 had sufficient water for a practice session?

12 A. David Lamotte brought bottles of water.

13 Q. Uh-huh.

14 A. He's our transportation director.

15 Q. Uh-huh.

16 A. And we made sure that we had plenty of bottles
17 of water that day, but I didn't have to actually fetch
18 them myself.

19 Q. No. I didn't mean you had to fetch them.

20 A. They were brought to us.

21 Q. Where did you bring them though?

22 A. To the field house. We loaded them up on the
23 Gator in the trailer.

24 Q. But you're not practicing in the field house,
25 are you?

1 A. No, sir.

2 Q. Practice is going to take place on the field,
3 and that is over 100 yards from the field house?

4 A. Yes, sir, about.

5 Q. And this incident that you have described was
6 during a prepractice meeting --

7 A. Yes, sir.

8 Q. -- correct?

9 Now, where was the team at the time that
10 you said this occurred?

11 A. Kneeling on the field closest -- the end
12 closest to the golf course. I don't know if it's north
13 or south.

14 Q. What yard line?

15 A. Near the goal line.

16 Q. Not near the 40?

17 A. No, sir.

18 Q. Okay. Was Coach Alexander facing the golf
19 course or the bus barn?

20 A. The bus barn, home stands direction. The team
21 was facing the -- the golf course.

22 Q. Okay. And to get to the field from the field
23 house, you can't go through the center of the stands,
24 can you?

25 A. There's a gate on the bus barn end. I don't

1 know north and south. I apologize. But on the bus barn
2 end that we come through between the main stands on the
3 home side and the band stands.

4 Q. I appreciate that. But my simple question is
5 you can't come through -- there's no opening in the
6 center of the stands to give that training staff access
7 to the field, correct?

8 A. No, sir.

9 Q. And you anticipated where I was going next.
10 The one gate that allows you to get in there with the
11 Gator carrying the water is to the bus barn side,
12 correct?

13 A. Yes, sir.

14 Q. Which is on the opposite end from the goal line
15 by the golf course, correct?

16 A. Yes, sir.

17 Q. Do y'all also have a watering device? I don't
18 know what you call them, but it had coolers.

19 A. Cow.

20 Q. Yeah. That has multiple --

21 A. We call it a cow.

22 Q. -- outlets for water?

23 A. Yes, sir.

24 Q. And was that device available that day for
25 water?

1 A. Yes, sir. We set it at the 50 yard line where
2 the water hose is.

3 Q. And that means that that device had to be
4 loaded, that that wasn't just hauling a bottle up there,
5 correct?

6 A. Yes, sir. My student trainers helped me load
7 that onto the Gator.

8 Q. So in addition to hauling bottled water at the
9 conclusion of your day in the classrooms, you were on --
10 going in and out of the north side entrance onto the
11 field not only hauling bottled water, but setting up a
12 water device, correct?

13 A. Yes, sir. We had all that done before --

14 Q. And --

15 A. --- Coach Alexander --

16 Q. And --

17 A. -- met.

18 Q. And overseeing that process during that period
19 -- prior to the start of the practice, correct?

20 A. Yes, sir. It was finished.

21 Q. Was any of that still going on at the time that
22 the prepractice meeting started?

23 A. No, sir. We were done and set up.

24 Q. So you deny that under oath?

25 A. That the water was set up?

1 Q. It was completely set up.

2 A. My student trainers might have been filling up
3 bottles at the time, but I was there, and that part was
4 finished. Yes, sir.

5 Q. Okay. And where was the, as you call it, cow
6 set up?

7 A. On the 50 yard line.

8 Q. Okay. So 50 yards away from where Coach
9 Alexander's meeting with the team?

10 A. Yes, sir, roughly.

11 MR. ADKISON: I pass the witness.

12 MR. JOHN C. HARDY: Nothing further of
13 this witness at this time.

14 INDEPENDENT HEARING EXAMINER: Okay. Ms.
15 Hamilton, you're excused. Let me admonish you because
16 you weren't in here earlier. You're not permitted to
17 discuss your testimony today with anyone. You're not --

18 THE WITNESS: Yes, sir.

19 INDEPENDENT HEARING EXAMINER: -- allowed
20 to discuss the questions that were asked of you. You're
21 not allowed to discuss the answers that you gave until
22 such time as the hearing is concluded either today or
23 wednesday. If anyone asks, you can say I was called to
24 testify. You can't say anything beyond that. Okay?

25 THE WITNESS: Okay.

1 INDEPENDENT HEARING EXAMINER: You're
2 excused.

3 THE WITNESS: Thank you.

4 MR. JOHN C. HARDY: My next witness is
5 Mr. Griffin.

6 INDEPENDENT HEARING EXAMINER: Okay.

7 MR. ADKISON: May I take a short break?

8 INDEPENDENT HEARING EXAMINER: We'll go
9 off the record.

10 (Recess.)

11 INDEPENDENT HEARING EXAMINER: Back on
12 the record. And Mr. Hardy, this witness has not been
13 sworn in, correct?

14 MR. JOHN C. HARDY: You are correct.

15 INDEPENDENT HEARING EXAMINER: Can you
16 give me your full name?

17 MR. GRIFFIN: Andy M. Griffin, Jr.

18 INDEPENDENT HEARING EXAMINER: Raise your
19 right hand.

20 ANDY M. GRIFFIN, JR.,
21 having been first duly sworn, testified as follows:

22 INDEPENDENT HEARING EXAMINER: Go ahead

23 MR. JOHN C. HARDY: Thank you.

24 EXAMINATION

25 BY MR. JOHN C. HARDY:

1 Q. Would you state your name for the record,
2 please?

3 A. Andy M. Griffin, Jr.

4 Q. And where do you reside?

5 A. In Troup, at 605 East McKay.

6 Q. And what is your position or relationship with
7 Troup ISD at this time?

8 A. I serve on the school board.

9 Q. Do you serve as an officer of the school board?

10 A. Yes.

11 Q. What office do you hold at this time?

12 A. President.

13 Q. Have you held that position for a period of
14 time?

15 A. I think about three years, but I'm not
16 positive.

17 Q. Were you present at the Troup ISD School Board
18 when Coach Dennis Alexander was hired?

19 A. I believe I was.

20 Q. During this -- this current school year
21 beginning in the fall, did you have occasion to visit
22 with Mr. Stuart Bird, the superintendent, about the
23 employment of Coach Alexander?

24 A. Mr. Bird called me in to discuss the issue,
25 yes.

1 Q. And what was the issue that you were
2 discussing?

3 A. At -- at that time there was alleged slapping
4 of a player, and they were taking some statements on it,
5 that kind of thing.

6 Q. After that initial discussion with Mr. Bird,
7 did you participate in board meetings where Mr.
8 Alexander's contract was under discussion?

9 A. Only at the last one. There was some
10 discussion of -- I don't know the exact wording,
11 termination request or -- I don't know the exact
12 wording.

13 Q. Under the proposed termination?

14 A. Proposed. That's...

15 Q. Mr. Griffin, do you recall -- and it's in the
16 record and I can get them for you. Exhibit No. 14 deals
17 with a board meeting on November the 3rd of 2015. would
18 you have been -- it shows that you were present at that
19 meeting. Were you -- do you recall that meeting?

20 A. Yes. Vaguely, yes.

21 Q. That's okay.

22 A. Details I would have a hard time.

23 Q. Well, certainly.

24 MR. ADKISON: He's talking about that one
25 right up here.

1 MR. JOHN C. HARDY: Thank you, Mr.
2 Adkison.

3 MR. ADKISON: You're welcome.

4 Q. (BY MR. JOHN C. HARDY) I'm just trying to lay
5 with you, Mr. Griffin, that there were several board
6 meetings where Coach Alexander's contract was under
7 discussion; is that correct? I'm not asking you to talk
8 about executive session, but that the minutes and the
9 agenda show --

10 A. Right, right.

11 Q. And then on December the 18th is the meeting
12 that we're talking about, and that's Exhibit No. 17 in
13 front of you, that deals with the agenda item No. 7
14 where there was a proposal to meet the termination of
15 Dennis Alexander as athletic director and head football
16 coach. Do you recall that?

17 A. Yes.

18 Q. Now, during that meeting there -- that vote
19 shows what? 4-0?

20 A. Yes.

21 Q. Why were there only four votes? There's six of
22 you that --

23 A. There were two --

24 Q. -- serve on this --

25 A. -- in -- on the Board that were personally

1 involved with some of the people that were involved in
2 this incident, so they recused themselves. John
3 Whitself and Gene Whitself.

4 Q. And they did not participate in either the
5 discussions or the vote; is that correct?

6 A. No.

7 Q. Is that correct?

8 A. Yes.

9 Q. After the board meeting and the motion by Shane
10 Jasper to terminate or propose termination of Dennis
11 Alexander and then Mr. Switzer seconded that motion,
12 that's what the minutes show. Do you have any objection
13 to that?

14 A. No, I don't.

15 Q. And then did you give notice in writing to
16 Coach Alexander on December -- dated December the 18th
17 that the Board had voted to propose his termination?
18 That's Exhibit No. 18.

19 A. Yes.

20 Q. And that's your signature on that, is it not,
21 sir?

22 A. Yes.

23 Q. And that was the action of the Board?

24 A. Yes.

25 Q. Did you as the board president and the Board

1 direct the superintendent, Mr. Stuart Bird, to prepare
2 and forward a letter to Mr. Dennis Alexander setting
3 forth the recommendation to propose termination?

4 A. Yes.

5 Q. And did that letter set forth who the witnesses
6 and the general testimony would be, as well as the eight
7 reasons for recommending proposal of termination of
8 Coach Alexander?

9 A. Yes.

10 Q. Let's go -- let's talk just a minute about your
11 background, Mr. Griffin. In your working -- are you
12 retired?

13 A. Yes.

14 Q. In your working career, what did you do?

15 A. I was a football coach.

16 Q. High school?

17 A. Yes, sir.

18 Q. During the time that you were a high school
19 football coach, did you ever slap or strike a student?

20 A. No. I, you know, being a coach all my life, I
21 believe a coach has a responsibility to be a role model
22 and to set an example for kids on how to act, how to
23 talk, how to treat others, how to be fair, how to
24 conduct themselves in all situations. So that -- that
25 would be the -- what I would rely on is my ability to do

1 that.

2 Q. Did you cuss the students that you were
3 coaching?

4 A. No.

5 Q. Do you believe that would be appropriate?

6 A. Well, again, you know, agreements -- when you
7 have team meetings and meetings with coaches, you go
8 over the fact that you've got to stay away from all
9 forms of disrespectful conduct, verbal abuse, physical
10 abuse, taunting, trash talking, that kind of thing
11 because we're interested in the bottom line, the
12 emotional health and well-being of our players.

13 Q. Are you fairly familiar with the corporal
14 punishment policies at school districts?

15 A. No, I'm not.

16 Q. Okay. Fair enough. Do you believe based on
17 what you have heard and reviewing the statements and
18 what you have seen that Coach Alexander ought to be
19 employed as the athletic director and head coach at
20 Troup ISD?

21 A. No, I do not. I had not talked to anybody, but
22 I have read the statements.

23 Q. Do you believe from what you have read and
24 reviewed and discussed with Mr. Bird that he is the role
25 model that you would want for the Troup athletes?

1 A. No.

2 Q. Do you believe based upon what you have read,
3 seen, and visited with Mr. Bird about in the
4 investigation that he should be brought back to Troup
5 ISD?

6 A. No.

7 MR. JOHN C. HARDY: Pass the witness.

8 CROSS-EXAMINATION

9 BY MR. ADKISON:

10 Q. Mr. Griffin, my name is Ron Adkison. I
11 represent Coach Alexander. You understand who I am and
12 who I represent?

13 A. Yes.

14 Q. Do you recall ever meeting me before?

15 A. Meeting you?

16 Q. Yes.

17 A. No, sir.

18 Q. Do you recall the reception that was given for
19 Coach Alexander when he was hired?

20 A. Vaguely, yes.

21 Q. And it was in this very room?

22 A. Yes.

23 Q. Now, at the time that Coach Alexander was
24 hired, Troup did not have a superintendent, correct?

25 A. I believe we were close to, but I'm not sure we

1 did.

2 Q. That's all right. And how long have you known
3 Coach Alexander?

4 A. Well, we have never been close friends, but we
5 have been acquaintances through many years.

6 Q. How many?

7 A. I would say since 1969 or '70, somewhere in
8 that area. When we -- he was at Hughes Springs, we
9 played each other and got to know each other, but it was
10 a casual acquaintance.

11 Q. Sure. What about when he was at Daingerfield?

12 A. We played in the playoffs there once, yes.

13 Q. All right. And so since 1969 or 1970, you've
14 known Coach Alexander, you've known his coaching
15 methods.

16 A. I wouldn't put it that way.

17 Q. Well, okay. Coaching -- you've known Coach
18 Alexander and you know his personality, correct?

19 A. I did not know him personally, on a personal
20 relationship basis. We had -- we met at games and we
21 talked at games and we had meetings about games that
22 were going to happen. That's the extent of our --

23 Q. What about coaching clinics?

24 A. I don't recall ever seeing him.

25 Q. You're not trying to tell the jury under oath

1 that one coach in the district does not know the
2 reputation of another coach in the district, do you?

3 A. That one coach in the district?

4 Q. Let me start over. Let me slow down a bit.
5 You're not here under oath to tell the hearing officer
6 that a coach in a district doesn't know the reputation
7 of another coach in the district, are you?

8 A. I know of things that they've -- been said
9 about them, but as far as personally knowing, no.

10 Q. Okay. Now, back to the reception, do you
11 recall you and I and Coach Alexander being in this
12 corner back here laughing about his reputation for using
13 profanity?

14 A. No, sir, I don't.

15 Q. Do you deny that?

16 A. I don't remember it. I sure don't.

17 Q. Now, also at the time that Coach Alexander was
18 hired, did you and he go to see Mr. Hardy, the school's
19 lawyer, together about his contract?

20 A. Yes, sir. Sure did.

21 Q. And that was at your instance, was it not?

22 A. Yes, sir; to make sure he was protected in
23 every way that he could be protected by a contract.

24 Q. Including his contract contained a provision
25 that he could not be reassigned?

1 A. Correct.

2 Q. And as a former coach, you are sensitive to
3 protecting coaches?

4 A. I sure am.

5 Q. Because if the won-loss record gets a little
6 bad, then all of a sudden the knives are out and
7 everybody's looking for a reason to fire him, aren't
8 they?

9 A. Right. And it doesn't always have to be --
10 it's just if you do the wrong thing at the wrong time to
11 the wrong person.

12 Q. Wrong thing, wrong time, wrong person. All
13 right. I'm going to come back to that.

14 But what I was going to say is the
15 won-loss record gets bad, and Dennis's has been bad for
16 a couple of years, hasn't it, right?

17 A. Yes, sir. We all experience that.

18 Q. Sure. And, I mean, did you ever know Jim Hess?
19 He was a coach --

20 A. Yes, sir.

21 Q. -- at Angelo?

22 A. Yes, sir.

23 Q. Mr. Hess told me one time on the sideline at
24 New Mexico State, if you can't run and jump, you can't
25 play this game, right?

1 A. (Moving head up and down.)

2 Q. Do you agree with that?

3 A. I -- I would agree if you can't run it, you
4 sure can't.

5 Q. Yeah. If you can't run and jump, you can't
6 play this game. So anyway, back to what I was saying.
7 The won-loss record starts getting bad, then everybody
8 gets their knives out, and any old excuse will do,
9 correct?

10 A. Sometimes.

11 Q. Yeah. And your entire source of information
12 about what really did or didn't go on as regards to
13 Coach Alexander hitting a player came from Stuart Bird,
14 didn't it?

15 A. No. It came from me reading the statements.

16 Q. Oh, okay. I'm sorry. That was a bad question.
17 Let me start over.

18 You have not independently made any
19 verification of the matters contained in the statements,
20 have you?

21 A. What -- explain what you mean --

22 Q. Yeah.

23 A. -- by that.

24 Q. I mean you didn't go out and interview anybody

25 --

1 A. Oh, no.

2 Q. -- who gave a statement --

3 A. No.

4 Q. -- right?

5 A. No, no.

6 Q. And you didn't conduct any investigation to see
7 if there might be other motives behind any of the
8 statements that you read, right?

9 A. No, I did not.

10 Q. Okay.

11 A. That would be out of place for me.

12 Q. Sure. And you -- so what I was getting at
13 before is by necessity, your opinions that you've
14 expressed about Coach Alexander are based on this
15 investigation, correct?

16 A. Yes, sir.

17 Q. And would depend upon the truth and veracity
18 and the thoroughness of the investigation, correct?

19 A. Yes, sir.

20 Q. For instance, if there are other players and
21 other coaches who were on that field at the time who
22 were looking right at Coach Alexander and who say what
23 they're saying happened just didn't happen, that would
24 change your mind, wouldn't it?

25 A. Not -- because the statements I saw --

1 Q. I know.

2 A. -- were -- were all in contrast to that.

3 Q. Sure.

4 A. And as far as I know, everybody that has seen
5 the incident was interviewed.

6 Q. And that's what was told to you, wasn't it?

7 A. Yes, sir.

8 Q. Now, if that turns out to be wrong and if there
9 were people who were interviewed who said that didn't
10 happen, that starts to make you question the extent
11 of the the investigation?

12 A. No, sir. The people that -- they were positive
13 of what they stated as I read it.

14 Q. Okay.

15 A. And they were positive about what they had seen
16 happen.

17 Q. What about John Eastman? Did John Eastman see
18 it?

19 A. I don't know.

20 Q. Well, I thought you read the statements.

21 A. I believe -- let me refresh. I don't think he
22 saw it. I don't -- I don't recall reading that.

23 Q. Okay. Now -- so there's absolutely nothing
24 that could be produced or introduced that would change
25 your mind in any way whatsoever, correct?

1 A. That was a thorough investigation, as I
2 understand it.

3 Q. But -- I appreciate that. I just need you to
4 answer my specific question. Okay?

5 So as a result of this investigation,
6 there is nothing that would change your mind about Coach
7 Alexander's status with Troup Independent School
8 District; is that correct?

9 A. That's correct.

10 MR. ADKISON: That's all I have, your
11 Honor, at this time.

12 INDEPENDENT HEARING EXAMINER: Okay.

13 MR. JOHN C. HARDY: Nothing further of
14 this witness at this time. Thank you.

15 INDEPENDENT HEARING EXAMINER: Okay.
16 Mr. Griffin, let me admonish you. You can go ahead and
17 stand up. You don't have to sit back down. Let me
18 admonish you, you're not to discuss your testimony here
19 today with anyone until the hearing is concluded,
20 probably on Wednesday. Don't discuss the questions that
21 you were asked. Don't discuss the answers that you
22 gave. The only thing that you're permitted to say is
23 that -- is that you did testify. Is that clear?

24 THE WITNESS: Yes, sir.

25 INDEPENDENT HEARING EXAMINER: Thank you.

1 THE WITNESS: Thank you.

2 INDEPENDENT HEARING EXAMINER: Okay. Now
3 let's take a lunch break. Now, you guys tell me because
4 I don't know Troup.

5 UNIDENTIFIED AUDIENCE MEMBER: Don't get
6 caught by the train.

7 MR. ADKISON: Depends on which side of
8 the train track you're on.

9 INDEPENDENT HEARING EXAMINER: Are --
10 what -- how much time do we need for lunch? Let's go at
11 it that way.

12 MR. ADKISON: Seriously about the train
13 track, I'm going to say -- you better say an hour,
14 because if you get on the other side of that, that thing
15 --

16 MR. JOHN C. HARDY: An hour is fine.

17 INDEPENDENT HEARING EXAMINER: All right.
18 Then we'll adjourn until 1:10 and be ready to go when we
19 get back. Off the record.

20 (Lunch recess.)

21 INDEPENDENT HEARING EXAMINER: Let's go
22 back on the record.

23 All right. Mr. Hardy, you can call your
24 next witness.

25 MR. JOHN C. HARDY: At this time the

1 petitioner rests.

2 INDEPENDENT HEARING EXAMINER: Okay. Mr.
3 Adkison?

4 MR. ADKISON: I'll briefly recall the
5 superintendent.

6 INDEPENDENT HEARING EXAMINER: And Mr.
7 Bird, you're still under oath. I'll just remind you.

8 MR. BIRD: Yes, sir.

9 INDEPENDENT HEARING EXAMINER: Okay. Go
10 ahead.

11 STUART BIRD,
12 having been previously duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. ADKISON:

15 Q. Mr. Bird, as superintendent of schools, it's my
16 understanding that you're -- part of your
17 responsibilities is overseeing the curriculum.

18 A. Yes, sir.

19 Q. And you're familiar with a class that Troup ISD
20 has that's Pre-AP English?

21 A. Yes, sir.

22 Q. And who teaches that class?

23 A. Jennifer Minnix teaches that class. I had to
24 think.

25 Q. Now, do you recall having a discussion with one

1 of the player's mothers, Ms. Cabe, about that
2 curriculum?

3 A. I do.

4 Q. And her complaint centered around a book that
5 is required reading under the curriculum of the Troup
6 Independent School District, is it not?

7 A. Yes, sir. It would be included -- that's --
8 it's actually a state assigned book.

9 MR. ADKISON: I appreciate that. I'll
10 object to it as non -- nonresponsive.

11 Q. (BY MR. ADKISON) The Troup Independent School
12 District requires students in Pre-AP to read this book,
13 correct?

14 A. They did this year.

15 Q. Okay. And as I understand the allegation, it
16 is that the language that Coach Alexander is accused of
17 using is inappropriate; is that correct?

18 A. Yes, sir.

19 Q. And that that language is inappropriate in all
20 settings, correct?

21 A. Yes, sir.

22 Q. Hand you Plaintiff's Exhibit 1. Do you
23 recognize the book?

24 A. I do.

25 Q. "The Things They Carried." That's the book

1 we're discussing, correct?

2 A. Yes, sir.

3 Q. And this book that the students are required to
4 read has the F bomb in it continuously, doesn't it?

5 A. Yes, sir, it does.

6 Q. It has derogatory language towards women,
7 doesn't it?

8 A. It does.

9 Q. It has the "GD" word throughout it, doesn't it?

10 A. It does.

11 Q. It has derogatory descriptions of female
12 anatomy in it?

13 A. It does.

14 Q. It has graphic descriptions of the male anatomy
15 in it?

16 A. It does.

17 MR. ADKISON: I offer Exhibit --
18 Respondent's Exhibit 1.

19 MR. JOHN C. HARDY: No objection.

20 INDEPENDENT HEARING EXAMINER:
21 Plaintiff's Exhibit 1 is admitted. I'm sorry. I said
22 Plaintiff's Exhibit 1.

23 MR. ADKISON: Respondent.

24 INDEPENDENT HEARING EXAMINER:
25 Respondent's Exhibit 1 is admitted.

1 (Respondent Exhibit 1 admitted.)

2 MR. ADKISON: And your Honor, in my
3 confusion I had to mark out -- because the only exhibits
4 I had, had plaintiff's on them.

5 INDEPENDENT HEARING EXAMINER: Yeah. I
6 -- I think that's what it was, but we're clear.

7 Q. (BY MR. ADKISON) Now, as I -- the Troup
8 Independent School District is a governmental
9 subdivision, is it not?

10 A. Correct.

11 Q. And you were carrying out as regards to Coach
12 Alexander an investigation by such subdivision of the
13 state, were you not?

14 A. Yes, sir.

15 Q. And I asked you briefly earlier, part of your
16 responsibility as regards to your role in this
17 investigation would have been recordkeeping?

18 A. Yes, sir.

19 Q. You would be the custodian of those records,
20 correct?

21 A. Correct.

22 Q. And you would also be the person who would
23 choose what information would be recorded in those
24 records, correct?

25 A. Ask me that question again.

1 Q. You would also be the person as the
2 investigator who would be in charge of putting
3 information into records, would you not?

4 A. I suppose so. In this -- in this case I was
5 not.

6 Q. Who was?

7 A. The witnesses. That's the only records we
8 kept.

9 Q. Well, I understand that the witnesses would
10 create a record, but it was your responsibility as the
11 person charged by law to maintain records of the
12 investigation, correct?

13 A. That's correct.

14 Q. Are you familiar with Article 37 of the Texas
15 Penal Code?

16 A. No, sir.

17 Q. Are you familiar with Section 36 of the Texas
18 Penal Code?

19 A. No, sir.

20 Q. Now, so that we will be perfectly clear on this
21 matter, did you ever interview Coach Greer?

22 A. I don't think so, but I don't remember. I
23 don't think I did. On this matter?

24 Q. Yes.

25 A. I don't think so.

1 Q. Did you not interview him on Tuesday?

2 A. Of this week?

3 Q. No. Tuesday following the Monday.

4 A. Maybe we did.

5 Q. Is there somebody in the audience that can tell
6 you if you did --

7 A. Yeah. That --

8 Q. -- or not?

9 A. That would be my high school principal. I was
10 looking at him for a little bit of memory on that. We
11 interviewed quite a few people, and I don't remember --
12 if -- let me -- can I say something?

13 Q. Well, you can answer my question. Did you
14 interview him or not interview him?

15 A. I don't remember.

16 Q. Now, if you're not familiar with it, I won't
17 bore you with the Penal Code sections. But did you make
18 any notes of the persons that you interviewed for this
19 official investigation of a governmental body that are
20 not found in the documents that you've introduced here
21 before the hearing examiner?

22 A. I did not.

23 Q. Why not?

24 A. I didn't see the need for it.

25 Q. Well, let's get away from the Penal Code for a

1 section [sic] and get to practicalities of it. Was your
2 investigation an impartial investigation or was it a
3 result oriented investigation?

4 A. It was an impartial investigation.

5 Q. And in an impartial investigation, you would
6 record all the information that supported your decision
7 or did not support your decision, wouldn't you?

8 A. As I stated earlier, the people who had known
9 -- the only people I interviewed that had -- they had no
10 knowledge of what went on. I did not record any of that
11 information. They didn't see it. They didn't hear it.
12 They had no knowledge.

13 Q. Did anybody ever describe to you exactly what
14 they saw that was not in keeping with what you later
15 reported to the school board?

16 A. Ask it again, Ron. Make sure I understand what
17 you're asking me.

18 Q. Let me just be blunt.

19 A. Okay.

20 Q. Did anybody tell you that they saw what
21 happened of what you were being told happened was not
22 what happened?

23 A. Yes, sir. One person did.

24 Q. Who?

25 A. That would have been Tell Ross.

1 Q. What about Coach Greer?

2 A. I don't recall Coach Greer telling me anything
3 like that.

4 Q. So at the time that you -- now, did Coach Ross
5 give you his information that says what you were being
6 told simply wasn't true before or after you suspended
7 Coach Alexander?

8 A. It would have been after.

9 Q. Now, the only statement that I see from a coach
10 is from Coach Eastman, correct?

11 A. I don't think so. Do we not have other
12 coaches' statements?

13 Q. I'm just asking. I mean, let me -- let's be
14 clear about something. You made a decision to suspend
15 an educational professional.

16 A. Correct.

17 Q. And so did you pay attention to what you were
18 reading and hearing before you made that decision?

19 A. I paid very close attention to what I was
20 reading and hearing.

21 Q. Okay. So --

22 A. But that's been some months ago at this point.

23 Q. All right. Well, did you have meetings prior
24 to the start of this hearing to refresh your memory
25 about what the course of the investigation was?

1 A. We did do some of that, yes, sir.

2 Q. How many hours did you spend reviewing the
3 material before today to get ready for today?

4 A. Not many.

5 Q. Well, you realize that today is the day that
6 somebody has to decide whether or not to follow your
7 recommendation, correct?

8 A. Yes, sir.

9 Q. So you're not aware of any coaches -- can you
10 point me to any particular coach's statement that was in
11 your investigation other than Coach Eastman?

12 A. No, sir, I can't.

13 Q. And what Coach Eastman said was that he did not
14 see Dennis Alexander strike a player, didn't he?

15 A. Exactly.

16 Q. Well, but didn't you just tell me that the
17 reason you didn't write some of this stuff down was
18 because these people said they didn't see it? Do you
19 remember telling me that just a minute ago?

20 A. I did. And I told you that because really and
21 truly, the --

22 MR. ADKISON: Excuse me, your Honor.
23 It's nonresponsive. I object to it.

24 A. Okay.

25 INDEPENDENT HEARING EXAMINER: Sustained.

1 Q. (BY MR. ADKISON) And Coach Eastman just
2 happens to be the person who now has the job of athletic
3 director and head football coach, correct?

4 A. That's correct.

5 Q. Now, did Coach Eastman previously occupy the
6 position of head football coach?

7 A. He did.

8 Q. When?

9 A. Before I got here. I'm not sure when.

10 Q. And he has a child who is playing on that very
11 team, correct?

12 A. That's correct.

13 Q. Who is friends with some of these students that
14 you interviewed, correct?

15 A. Yes, sir. I suppose. I don't know that.

16 Q. Now, I noticed that a great many of these
17 statements are written, correct?

18 A. Yes, sir.

19 Q. Coach Ross's statement is typed, isn't it?

20 A. Yes, sir, if I remember that correctly.

21 Q. And that was because Coach Ross -- did Coach
22 Ross type his own statement?

23 A. I have no idea who typed that statement.

24 Q. So particularly, at what point in time did you
25 decide to suspend Dennis Alexander?

1 A. I decided to suspend Dennis Alexander when I
2 had all the statements from the youngsters and some
3 coaches who knew something about that, actually saw it,
4 were witnesses to it, were close to it, after I'd had a
5 conversation with Coach Alexander about it, after I'd
6 had a conversation with Coach Alexander and the dad in
7 my office.

8 Q. And so that coach did not attend the Wednesday
9 practice, correct?

10 A. That's correct.

11 Q. Which was the 21st?

12 A. No. That's not true. He did attend that
13 Wednesday practice. In fact, if I'm not mistaken, I
14 sent him on to practice pending the conversation with
15 the dad, he, and I that afternoon.

16 Q. Which way is it? I've heard it two different
17 ways now. Which way is it?

18 A. Okay. We have -- I sent him on to practice
19 that afternoon.

20 Q. Which afternoon?

21 A. On Wednesday afternoon.

22 Q. Okay.

23 A. Okay. Pending my conversation with he and John
24 at 5:00 or 5:30 that same afternoon.

25 Q. It was your -- was there anything else pending

1 besides his conversation with you and Mr. Whitse11 that
2 afternoon?

3 A. Not on the suspension, no.

4 Q. So had you already decided to suspend him?

5 A. I had not decided to suspend. I wanted to have
6 that conversation before I made that decision.

7 Q. Okay. But my question is, was there anything
8 -- so there's nothing pending other than the
9 conversation between Coach Alexander and Mr. Whitse11?

10 A. That's correct.

11 Q. All right. So at what time on -- so are you
12 saying that you suspended him on the afternoon of the
13 21st?

14 A. If that's Wednesday afternoon, yes, sir.

15 Q. All right. And so that's -- you didn't have
16 Blake Attaway's statement then, did you?

17 A. I did have Blake Attaway's statement then.

18 Q. Well, it's dated 10/22.

19 A. He's got -- he's got the wrong date on it.

20 Q. Okay. Well, what time of day did you take the
21 statements from the players? Was that in the morning
22 of the 21st?

23 A. It probably would have been late morning of the
24 21st, maybe to early afternoon.

25 Q. All right.

1 MR. ADKISON: Just a second, your Honor.

2 INDEPENDENT HEARING EXAMINER: Yes.

3 Q. (BY MR. ADKISON) Now, at what point in time
4 did you issue a written notice of suspension to Coach
5 Alexander?

6 A. You're asking about the date?

7 Q. Yes, sir.

8 A. I don't remember.

9 Q. Did you -- at the time that you suspended him,
10 did you give him that written notification or did you
11 oral -- did you verbally suspend him?

12 A. Verbally suspended him.

13 Q. All right. How long after that -- when's the
14 first time that he received a written notice of any
15 suspension of his duties?

16 A. I don't remember.

17 Q. Well, as I understood you to say this morning,
18 the exhibits that you -- Exhibit No. 1 was your complete
19 file regarding Coach Alexander's suspension; is that
20 correct?

21 A. Yes, sir. You're talking about the --

22 Q. I'm talking -- this Exhibit No. 1 that you
23 testified under oath this morning was the complete file
24 that you had of this investigation and suspension.

25 A. Yes, sir.

1 Q. Is that testimony still true?

2 A. It is.

3 Q. So look through there and show me where the
4 first time Coach Alexander got a written notice of
5 suspension was.

6 MR. JOHN C. HARDY: Your Honor, while the
7 witness is looking for that answer, I would object to
8 mischaracterization in the question. Exhibit No. 1 is
9 the contract of Coach Alexander.

10 INDEPENDENT HEARING EXAMINER: Okay.
11 Sustained.

12 MR. ADKISON: Oh, I'm sorry.

13 INDEPENDENT HEARING EXAMINER: Just --
14 and I was going to just jump in and say the same thing,
15 Mr. Adkison. The -- the various documents were all
16 separate exhibits.

17 MR. ADKISON: Oh, I'm sorry.

18 INDEPENDENT HEARING EXAMINER: Those are
19 the ones that have been admitted. Here are the ones
20 that have not been admitted.

21 Q. (BY MR. ADKISON) Let me give you the exhibits
22 that are currently in evidence, although I think mine's
23 got the same -- got the same the document. All these
24 statements.

25 A. December the 18th, 2015.

1 Q. And you're referring to Exhibit No. 18?

2 A. Yes.

3 Q. So you verbally suspended him on October the
4 20th -- afternoon of October the 21st?

5 A. I believe that's correct, if that's the
6 Wednesday.

7 Q. But did not serve him a written notice of
8 suspension until December the 18th?

9 A. That's correct.

10 Q. All right.

11 A. Actually that's the notice of hearing, isn't
12 it?

13 Q. Yes, sir. So is that a written notice of
14 suspension?

15 A. No.

16 Q. Okay. As of December the 18th, he still
17 doesn't have a written notice of suspension, correct?

18 A. Yes, sir.

19 Q. Well, continue to look through all those
20 exhibits and see when there's the first time he has a
21 written notice of suspension.

22 A. December the 18th, in this letter right here.

23 Q. Okay. In a letter from you?

24 A. Yes, sir.

25 Q. Now, from the time that you verbally suspended

1 Coach Alexander on October the 20th -- on the afternoon
2 of October 21st until December the 18th, did you
3 continue to interview potential witnesses as regards to
4 Coach Alexander's suspension?

5 A. There was one day that I did interview some
6 people at the middle school.

7 Q. Who did you interview?

8 A. Interviewed Coach Davis.

9 Q. All right.

10 A. Donnie Leach. I'm trying to remember who the
11 other one was.

12 AUDIENCE MEMBER: Lawson and Cole.

13 INDEPENDENT HEARING EXAMINER: Ma'am,
14 please don't speak.

15 AUDIENCE MEMBER: Oh, I'm sorry.

16 MR. ADKISON: Can we identify who that
17 speaker is?

18 INDEPENDENT HEARING EXAMINER: Yeah. Can
19 you -- now that -- now that you've spoken, give me your
20 name.

21 MS. JOHNSON: I'm Ava Johnson.

22 A. She's the principal at the middle school.

23 Q. (BY MR. ADKISON) Did you take any written
24 statements from those people that you subsequently
25 interviewed?

1 A. I did not.

2 Q. So you still maintain that your investigation
3 was impartial?

4 A. I do believe it was impartial.

5 Q. And yet even after you had verbally suspended
6 him, you continued interviewing witnesses, correct?

7 A. That's correct.

8 Q. Now, in this Petitioner's Exhibit 19, is there
9 any allegation made against Coach Alexander of the use
10 of racial slurs?

11 A. I know that there are.

12 Q. Please show them to me.

13 A. I'm trying to find them. Yes, sir. No. 4,
14 right here in this statement.

15 Q. Okay. And Blake Attaway's statement is the
16 statement that says that the racial slur that he's
17 talking about is the statement, quote, we're going back
18 to the old days where you don't get a break or any
19 water?

20 A. That's correct.

21 Q. And he didn't tell you anything other than
22 that, did he?

23 A. No; other than it was directed to a person of
24 color.

25 Q. Okay. Now, your background prior to being an

1 administrator was a band director?

2 A. Yes, sir.

3 Q. And in what years was that?

4 A. I have to think back. That would have been
5 about 1968 through -- on and -- I guess on and off
6 around through maybe '90. Yes. I became a principal in
7 '90.

8 Q. As a band director, did your band take water
9 breaks?

10 A. You bet.

11 Q. Were you aware of what the culture for football
12 teams was, particularly during conditioning during that
13 period of time?

14 A. Yes, sir.

15 Q. And at that point in time, water breaks were
16 scheduled?

17 A. At that point in time they were not scheduled.

18 Q. Well, did they occur or not occur?

19 A. They occurred, but they weren't scheduled. It
20 was when the coach thought they needed a break or when I
21 thought they needed one.

22 Q. Okay. And so depending on who your coach or
23 your band director was, we might take a water break now
24 or we might take one in two hours or we might take one
25 some other time?

1 A. That's correct.

2 Q. I mean, the stories are legendary about Bear
3 Bryant down in Crimson. You don't get any water, right?

4 A. Uh-huh.

5 Q. Is that correct?

6 A. That's correct.

7 Q. And Bear Bryant had a lily white football team,
8 didn't he?

9 A. Yes, sir, he did.

10 Q. And so not taking breaks and not drinking water
11 certainly wasn't racial according to the graduating
12 class of 1957 at Texas A&M, was it?

13 A. No, sir.

14 Q. Okay. But you decided that this statement,
15 that we're going back to the old days when you don't get
16 a break for any water is somehow racial?

17 A. I didn't make that decision. Blake made that
18 decision with his explanation.

19 Q. Well, you repeated it, didn't you? Who's the
20 adult? You or Blake?

21 A. Well, you know I'm the adult, but I believe
22 what Blake told me. He told me who it was directed to,
23 and that was a person of color, so he took it racially.
24 I didn't.

25 Q. Knowing what you know now, are you telling this

1 hearing examiner that that's a racial slur or not?

2 A. I think that -- do I think that?

3 Q. Yes.

4 A. I don't know.

5 Q. Okay.

6 A. But I do think --

7 Q. Excuse me.

8 A. Okay. Gotcha.

9 MR. ADKISON: I pass the witness.

10 CROSS-EXAMINATION

11 BY MR. JOHN C. HARDY:

12 Q. Mr. Bird, just so I can be a historian also
13 like Mr. Adkison, do you know that in 1957 that there
14 were no blacks at A&M?

15 A. I did not know that for sure.

16 Q. The -- do you believe as an educator and
17 administrator that there's a difference between
18 literature and the language used in literature and the
19 language directed at a student?

20 A. There is no question. There is a huge
21 difference in the two.

22 Q. And the books that are read by the Pre-AP, AP
23 English classes or whatever, are those books from the
24 state mandated, state approved list of literature books?

25 A. Those books are on that list, yes, sir.

1 Q. Does a student have the right to opt out of a
2 class if there is something that's being taught that is
3 against their religious beliefs or their moral beliefs?

4 A. Yes, sir. They would have that opportunity.

5 Q. Was that requested in this situation?

6 A. It was -- it was after the fact, yes, sir. We
7 eliminated it from our process.

8 Q. Thank you. Talking about Coach Eastman being
9 the athletic director. Who recommended to you that he
10 be appointed athletic director?

11 A. Coach Alexander, in our conversation, which I
12 asked him who should step up, Coach Eastman. And he
13 said yes.

14 MR. JOHN C. HARDY: Okay. That's all I
15 have at this time of this witness.

16 MR. ADKISON: I have nothing further at
17 this time.

18 INDEPENDENT HEARING EXAMINER: Okay.
19 You may step down.

20 MR. ADKISON: I need to go get my next
21 witness. It's going to be Coach Greer.

22 INDEPENDENT HEARING EXAMINER: Go off the
23 record for a second.

24 (Recess taken.)

25 INDEPENDENT HEARING EXAMINER: Back on

1 the record.

2 Mr. Greer, I swore you in earlier,
3 correct?

4 MR. GREER: Yes, you did.

5 INDEPENDENT HEARING OFFICER: Okay. Go
6 ahead.

7 ASTIN GREER,
8 having been previously duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. ADKISON:

11 Q. Would you state your name, please, sir?

12 A. Astin Greer.

13 Q. Coach Greer, how are you employed?

14 A. Excuse me?

15 Q. How are you employed?

16 A. Where I'm -- was I employed?

17 Q. No. The question, how -- what job do you
18 currently hold?

19 A. Oh, I'm sorry. I'm the head boys basketball
20 coach and the head track coach and assistant football
21 coach.

22 Q. What position do you coach in football?

23 A. I coach a little bit of everything.

24 Defensively I coach -- I have the secondary cornerbacks
25 and safeties, and offensively I help with the receivers.

1 Q. Do you recall being summoned to speak to the
2 superintendent and high school principal?

3 A. Yes, I do.

4 Q. And were -- if the incident that's the subject
5 of this inquiry was October the 19th, a Monday, when
6 would you have been questioned?

7 A. I believe it was a Tuesday, I think.

8 Q. Was that the day after the allegation of the
9 incident?

10 A. The allegation of the inc -- the actual
11 incident that was alleged was on a Monday. I believe
12 it was on a Tuesday.

13 Q. The next day?

14 A. Yes. I think so.

15 Q. And who interviewed you?

16 A. Mr. Bird and Mr. Smith, the principal.

17 Q. Where did that interview take place?

18 A. In Mr. Smith's office.

19 Q. And were you asked about seeing Coach Alexander
20 strike a player?

21 A. Yes, I was.

22 Q. And what did you reply?

23 A. I told him he didn't. I hadn't seen him do it.
24 I told him the scenario of what was going on when it was
25 supposed to have happened, and I told them I didn't see

1 him slap him, and I was right there.

2 Q. All right. Now, there's been -- there's been
3 some discussion of Coach Alexander's players are
4 laughing right behind him. Coach Alexander reaches down
5 and takes a headband off, pops him on the head with a
6 headband. Was that discussed? The head -- what I call
7 the headband part.

8 A. The headband never came up. I was just asked
9 did he slap a player.

10 Q. And did you see him remove a headband?

11 A. I saw him take the headband off a kid because
12 he was talking. They were all talking and giggling, and
13 Coach -- Coach A kind -- Coach Alexander laughed with
14 him, and he snatched the headband off just being funny,
15 laughing with them, and popped him twice with it on the
16 head.

17 Q. Is that it?

18 A. Yes, sir. That's all he did to that player.

19 Q. Did -- if you were -- you've indicated a motion
20 with your hand.

21 A. Uh-huh.

22 Q. If you were standing 50 yards away as opposed
23 to where you were standing, would you be able to tell
24 any difference between that or be able to tell whether
25 or not he actually hit him with his hand?

1 A. I mean, I think if you're standing where I was
2 or 50, 75 yards away, it'd still look the same.

3 Q. Okay. Now, you said that the Coach was trying
4 to talk and the kids were laughing and talking. Do you
5 remember anything about the identity of those players
6 who were laughing and talking while Coach was trying to
7 talk?

8 A. I know one was Colton Whitsett. I don't really
9 remember everybody who was -- I know Blake Attaway was
10 near, and I know Demontrae Wade was near as well.

11 Q. Okay.

12 A. But we didn't have a very big team.

13 Q. Sure.

14 A. So, I mean, when I say I near, that's about --

15 MR. JOHN C. HARDY: I'll object as
16 nonresponsive. There's not even a question asked.

17 INDEPENDENT HEARING EXAMINER: Sustained.

18 MR. ADKISON: Okay. That's all right.

19 Q. (BY MR. ADKISON) Colton Whitsett was the child
20 with the headband, correct? Player with --

21 A. Yes, sir.

22 Q. -- the headband.

23 A. It was an American flag headband.

24 Q. Now, Blake Attaway. Did you ever see Coach
25 Alexander take any action with Blake Attaway?

1 A. well, they were all laughing and talking. I
2 saw him hit Blake twice on the back of the head, but it
3 was nothing malicious that was, you know, harmful.

4 Q. And when you say he hit him, I mean, did he
5 swing at him hard or was it --

6 A. No.

7 Q. -- just tapping on the back --

8 A. He didn't bring his hand back. He tapped him
9 on the head twice.

10 Q. So he's got his hand right here right behind
11 his head and he taps him on the back of the head?

12 A. Yes, sir.

13 Q. Twice?

14 A. Yes, sir. I believe.

15 Q. That's it?

16 A. That's all that happened with Blake.

17 Q. All right. Now, there's been some other
18 statements entered about Trey.

19 A. Uh-huh.

20 Q. Now, were the players on a knee?

21 A. Everybody was on a knee, yes, sir.

22 Q. All right.

23 A. All the players were on their knee.

24 Q. So tell me, did you see any -- any interaction
25 between Coach Alexander and Trey?

1 A. well, it was -- like I said, that was around
2 the time when all the players were laughing, and Coach A
3 went up to Trey and grabbed him on the shoulders, and if
4 you're on one knee and somebody grabs you, you're going
5 to fall, and Trey fell onto the ground. He caught
6 hissself and set himself back up. He didn't push him to
7 the ground or anything.

8 Q. Okay. Was -- what was Coach's demeanor at that
9 time? I mean, was he screaming at them, was he
10 laughing? What was he doing?

11 A. well, he was laughing with the rest of the
12 kids.

13 Q. Now, except for the part about the headband --

14 A. Uh-huh.

15 Q. -- being questioned by the superintendent and
16 the principal, did you relay the substance of what
17 you've relayed to us here today? I know the headband
18 didn't come up, but did you relay the substance of what
19 you relayed here today in that meeting?

20 A. well, I told them, I said I didn't see anything
21 like that. I told them exactly what happened, and they
22 asked me did I see anything else? They asked me had I
23 seen -- or they asked had he been cussing at me -- or
24 cussing -- they asked did he cuss in general, and you
25 know, my comments were he -- nothing -- nothing

1 abnormal. I said it wasn't -- I said it was probably a
2 little bit more than what I'm used to but nothing
3 abnormal.

4 Q. Well, here's what I'm getting at. When you say
5 you told them what you -- you didn't see him slap or hit
6 anybody, but you told them what you saw, that's what I'm
7 talking about. Did you relay to them --

8 A. Yes, I did.

9 Q. -- basically what you've told us here today?

10 A. I told them what I saw, and I told them what
11 they asked. You know, they --

12 Q. Now, at that point, were -- was the
13 superintendent satisfied with what you told him about
14 these allegations?

15 A. I mean, I think --

16 MR. JOHN C. HARDY: I object. That's
17 rank speculation.

18 MR. ADKISON: Okay. Let me rephrase it.

19 Q. (BY MR. ADKISON) Was anything said to you
20 after you relayed to them what you relayed here? Were
21 you encouraged to say more? Were you given any
22 instructions or assurances or --

23 A. I was told that, you know, I was told -- I was
24 told -- and I forget by who, but I was told you don't
25 have to worry about it. Coach A's not going to know you

1 told us anything. Or no. Excuse me. You're not
2 telling us anything that we don't already know, is what
3 I was told.

4 Q. Were you asked to write a statement?

5 A. No, I was not.

6 MR. ADKISON: Pass the witness.

7 CROSS-EXAMINATION

8 BY MR. JOHN C. HARDY:

9 Q. Coach Greer, are you sure about the headband
10 incident?

11 A. Yes, sir.

12 Q. You were an eyewitness to that, right?

13 A. Yes, sir, I was.

14 Q. And you know the headband he was wearing?

15 A. Yes, sir. I believe it was an American flag
16 headband.

17 Q. You said that's all that he did to that player.
18 Did you see something else that he did to another
19 player?

20 A. Yes. I told you what he did to Blake Attaway.
21 He tapped him on the back of the head twice, and he --
22 he grabbed Trey by the shoulders while he was on a knee
23 which caused him to fall.

24 Q. Did you overhear the kids talking about anybody
25 getting hit?

1 A. No. I didn't hear any -- we split up into
2 position. Well, after that we stretched the kids, and
3 nobody at my station where the kids were, which were the
4 running backs and quarterbacks, none of them had said
5 anything about it, so I didn't hear anything about that.

6 Q. None of the coaches don't hang around when the
7 head coach is talking to the boys. You go to your
8 stations where the kids are coming to, don't you?

9 A. No. We didn't go to our stations that day
10 because that was our early practice. I think the power
11 was out at the school or the water had shut off, so we
12 got out of school early. So it was a early practice.
13 We were starting about 1:30, I think. I'm not sure
14 completely, but we were starting earlier than normal
15 because we got out of school earlier. So we were just
16 standing around. It was a longer speech than what he
17 normally gave. It was a pretty long speech that day, so
18 we were just standing around the huddle. I was probably
19 15 to 20 yards away from him with the two coaches I was
20 standing with.

21 Q. You said the language used was nothing that you
22 weren't used to or not out of the ordinary?

23 A. Right. When I was asked about the language,
24 his language, I told him it wasn't anything, you know,
25 that I hadn't heard before.

1 Q. Did you think the language was appropriate to
2 address to the students that way?

3 A. I mean, what -- he wasn't talking bad to them
4 right then. He wasn't saying anything -- he wasn't
5 using bad language at that time.

6 Q. What about the other times?

7 A. What other time? I mean, what are you --

8 Q. When he -- generally. Every day at practice.

9 A. I mean, it just depends. I've heard some cuss
10 words before on every coaching staff I've been on.

11 Q. But I'm asking about Coach Alexander. Did you
12 hear him tell the kids to get their "F'n A" over here?

13 A. I've never heard that from Coach Alexander.

14 Q. You never heard him use the "GD"?

15 A. I've heard him say damn it, not Goddamn it.

16 Q. But that's okay with you and the kids?

17 A. It doesn't bother me. I just got done with
18 basketball season. I cussed a little bit, too.

19 Q. At the kids?

20 A. Sometimes. I tell them, Get your ass in gear.
21 Let's go.

22 Q. Okay. Thank you. You believe it's okay to hit
23 the students?

24 A. No, sir. It's not okay for anyone to hit a
25 student.

1 Q. Would you describe yourself as a very sensitive
2 person when it comes to your feelings or your emotions
3 about what's said to you?

4 A. What do you mean? Could you elaborate?

5 Q. Would you be offended if somebody addressed you
6 or your child -- with your child, do you have any
7 problem if somebody addresses your -- your child with
8 this kind of language?

9 A. I'm the guardian of a student that goes to
10 school here and plays football with Coach A, and he
11 addressed him just like he addressed everybody else, and
12 I never had a problem with it.

13 Q. Never had a problem with Coach Alexander?

14 A. No.

15 Q. No problems?

16 A. (Moving head side to side.)

17 Q. Why don't you tell the hearing officer why you
18 had your student that you're a guardian of clean out his
19 locker and he wasn't going to play for Coach A anymore?

20 A. Because there was a kid that came into the
21 locker room and he said, I kill niggers for fun. And I
22 reported it to Coach A, but before he could handle it,
23 he got called down here and got suspended. He was in
24 the process of handling it, but he got a phone call --

25 Q. Your testimony now is he was in the process of

1 handling it?

2 A. Yes. He was handling that situation, and I
3 didn't say I'm pulling him off because Coach A's not
4 handling it. I was pulling him off because I said he's
5 not going to play on a team with kids that could do
6 that, because there was also a kid that you'll see later
7 that came to school with a fake Klan mask on and it was
8 the same situation. And I said I didn't feel
9 comfortable with him being a young African-American
10 student in that dressing room, because I felt like it
11 was kind of acceptable.

12 Q. You were mad at the coach, and you came to the
13 administration and you said, I'm having my kid clean out
14 his locker. I don't want him to play for Coach A.

15 A. I came to which administration?

16 Q. Troup ISD.

17 A. I didn't go to any administrator and say that.
18 I went to Coach Eastman.

19 MR. JOHN C. HARDY: Okay. That's all I
20 have of this witness.

21 REDIRECT EXAMINATION

22 BY MR. ADKISON:

23 Q. Is there any doubt in your mind that if Coach
24 Alexander had not been suspended at the time that he
25 was, that he would have handled this problem that made

1 you uncomfortable with your child?

2 MR. JOHN C. HARDY: I'm going to object
3 to the question. I'm going to object to the question as
4 speculation.

5 INDEPENDENT HEARING EXAMINER: Sustained.

6 Q. (BY MR. ADKISON) Let me ask you this: Did
7 Trey play on your basketball team?

8 A. Yes, he did.

9 Q. Prior to coming here, where was Trey in school,
10 Trey Wade?

11 A. Prior to -- excuse me. What was that?

12 Q. Prior -- prior to coming to Troup ISD, where
13 was Trey Wade enrolled?

14 A. He was enrolled here at Troup, I believe.

15 Q. But prior to that.

16 A. Prior to that, from my understanding from other
17 coaches he was at Arp.

18 MR. JOHN C. HARDY: I'm going to object
19 as to hearsay. The witness has clearly shown he doesn't
20 know.

21 INDEPENDENT HEARING EXAMINER: Overruled.

22 Q. (BY MR. ADKISON) Was he suspended from the Arp
23 athletic program?

24 A. I don't have any idea what he did.

25 Q. Did he finish the season as a basketball player

1 for you?

2 A. No, sir. He did not.

3 Q. Did you dismiss him from the basketball team?

4 A. Yes, I did.

5 Q. And what was the reason for his dismissal from
6 your program, which was basketball?

7 MR. JOHN C. HARDY: At this point I'm
8 going to object, Judge, that it's irrelevant and
9 immaterial to the facts at hand.

10 INDEPENDENT HEARING EXAMINER: Well, I'm
11 -- despite the objection, I'm going to shut that down
12 because that gets into student privacy issues that --
13 that we're not going to discuss.

14 Q. (BY MR. ADKISON) So you found it necessary in
15 your program that you were running and in the best
16 interest of the other athletes on that program to
17 suspend him from that program?

18 A. Yes, sir. He was --

19 MR. ADKISON: Pass the witness.

20 MR. JOHN C. HARDY: No more questions of
21 this witness at this time.

22 INDEPENDENT HEARING EXAMINER: Okay. Mr.
23 Greer, you can be excused. Just the same thing that I
24 said earlier today, you're not to discuss your testimony
25 with anyone, not to discuss the questions that you were

1 asked or the answers that you were given.

2 THE WITNESS: Yes, sir.

3 INDEPENDENT HEARING EXAMINER: Do you
4 understand that?

5 THE WITNESS: Yes, sir.

6 INDEPENDENT HEARING EXAMINER: Okay.
7 Call your next witness.

8 MR. ADKISON: Your Honor, I may can
9 shorten this up if you'll indulge me with about a
10 ten-minute break.

11 INDEPENDENT HEARING EXAMINER: Let's go
12 off the record and reconvene at 2:15.

13 (Recess.)

14 INDEPENDENT HEARING EXAMINER: On the
15 record.

16 MR. ADKISON: First of all, it's my
17 understanding that in the offer of the selected portions
18 of the Board policy that -- on my objection about it's
19 not the entire policy, can we consider that the Board
20 policy in its entirety is in evidence?

21 INDEPENDENT HEARING EXAMINER: Yes.

22 MR. ADKISON: Okay.

23 INDEPENDENT HEARING EXAMINER: Yeah. And
24 just -- just to clarify -- just to clarify my ruling,
25 the -- I think the two exhibits that were offered are

1 those specific Board policies that he -- that he
2 offered. The Board policy as a whole encompasses all
3 kinds of -- all kinds of policies. But I think the
4 two -- the two exhibits that were offered are the
5 complete -- the complete policy on that policy. In
6 other words, if it's a four-page policy, he wasn't only
7 offering two of the pages. So that's why I said that I
8 believe it was complete.

9 MR. ADKISON: Then my proposal at this
10 point in time is to offer, although I don't have it
11 downloaded with an exhibit sticker, the Board policy
12 of the TISD district for you to take notice of, not to
13 read from, not to cover. But for purposes of my record,
14 then I would need you to take notice of the entire Board
15 policy, not just the selected portions that have been
16 offered.

17 And what I'm dealing with, John, all of
18 that's not going to go. But without going -- but
19 without going through personnel matters, personnel
20 disciplinary matters, those such things.

21 MR. JOHN C. HARDY: It does not offend
22 me. If you're going to introduce all of the Troup ISD,
23 that's up to the Hearing Officer.

24 INDEPENDENT HEARING EXAMINER: Here's --
25 here's my issue with it. I mean, you know, if you're

1 offering it and he's not objecting, I'll admit it, but,
2 you know, when we're all said and done, whether that's
3 today or Wednesday, you both expect me to write my
4 recommendation, and without -- without pointing me at
5 the specific provisions of the Board policies that you
6 want me to review, it's going to be difficult for me to
7 pick those out on my own.

8 MR. JOHN C. HARDY: And without question
9 I agree with that. And one of the things I don't want
10 to waive on behalf of Troup ISD is if this goes to the
11 commissioner, I don't want to have 1,000 pages that I'm
12 paying for --

13 INDEPENDENT HEARING EXAMINER: Right.

14 MR. JOHN C. HARDY: -- to go up.

15 INDEPENDENT HEARING EXAMINER: Go ahead.

16 MR. ADKISON: Let me just kind of tell you
17 where I was coming from. In an effort to move this
18 along, what I had envisioned was, this was set to take
19 testimony, not only today, but Wednesday, that if we did
20 that, then I am assuming that you're going to want to
21 hear some further submission or see some further
22 submission from us, and that at that point in time, as
23 opposed to bringing the principal back, going over
24 specific policies with him that -- of course, all he can
25 do is say what it is, is to point those out in a written

1 statement or written argument to the Court so that we're
2 not burdened with the whole thing. That's kind -- I'm
3 just trying to figure out a way to move this along.

4 INDEPENDENT HEARING EXAMINER: Let me --
5 let me go at it this way. Okay. The -- the precedent
6 is clear that the school board gets to interpret their
7 own policy. Whether -- whether you agree with it,
8 whether I agree with it, whether Mr. Hardy agrees with
9 it, it's the school board's policy, and they get to
10 interpret it and not us.

11 The second thing that's clear is that --
12 that the Board's policy is what it is, and we can all go
13 out and find those policies. So I will -- I will take
14 notice that those policies are out there, and you are
15 correct. Whenever we finish, I'm going to ask y'all to
16 submit your proposed findings of fact and conclusions of
17 law to me, and if there is a specific Board provision
18 that you would like me to review that's not already in
19 front of me, then I will go pull that provision and look
20 at it knowing that it's going -- it says what it says.

21 MR. ADKISON: Right.

22 INDEPENDENT HEARING EXAMINER: But I -- I
23 am not going to include in the record 1,000 pages that
24 deal with purchasing and donations and everything else.
25 So if you -- if you want it included, you need -- you

1 need to point it out.

2 MR. ADKISON: Sure. And -- and I -- in
3 trying to speed up, I sort of left that part out, but
4 that was my assumption.

5 INDEPENDENT HEARING EXAMINER: Okay.

6 MR. ADKISON: With that understanding, I
7 don't have any problem. I'm good with that.

8 INDEPENDENT HEARING EXAMINER: Are you
9 okay with that Mr. Hardy?

10 MR. JOHN C. HARDY: I am. I am. Thank
11 you, sir.

12 INDEPENDENT HEARING EXAMINER: Okay.

13 MR. ADKISON: Let's see. I have a couple
14 housekeeping matters. I may have one other witness,
15 your Honor.

16 INDEPENDENT HEARING EXAMINER: Okay.

17 MR. ADKISON: I have Joey Gray, your
18 Honor.

19 INDEPENDENT HEARING EXAMINER: Mr. Gray,
20 I swore you in earlier, correct?

21 MR. GRAY: Yes, sir.

22 INDEPENDENT HEARING EXAMINER: Okay. Go
23 ahead, Mr. Adkison.

24 JOEY GRAY,
25 having been previously duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. ADKISON:

Q. Would you state your name?

A. Joey Gray.

Q. Joey, are you in school at Troup?

A. Yes, sir.

Q. What year are you in?

A. 2016, senior.

Q. Okay. And did you play football in the 2015 season?

A. Yes, sir.

Q. You became aware at some point in time that Coach Alexander had been suspended?

A. Yes, sir.

Q. Do you recall the day of October the 19th of that year?

A. I don't remember the exact date.

Q. I'd be shocked. Do you recall the practice where the water mains had been out and you practiced earlier?

A. Yes, sir. I remember that.

Q. And do you remember the Monday before you found out later that -- later in the week that Coach Alexander was suspended?

A. Yes, vaguely.

1 Q. Okay. And were you present on the field on
2 that Monday?

3 A. Yes, sir.

4 Q. And did you see Coach Alexander on the field
5 with Colton Whitsett that day?

6 A. I saw him with him, yes, sir.

7 Q. And did -- tell us whether or not Colton had on
8 a headband at that time.

9 A. Yes, sir.

10 Q. Was Coach Alexander trying to talk?

11 A. Yes, sir.

12 Q. Was Colton -- what was Colton doing while Coach
13 Alexander was initially trying to talk?

14 A. Talking and goofing around.

15 Q. Did you see Coach Alexander take off Colton's
16 headband?

17 A. Yes, sir.

18 Q. What did he do with it when he took it off?

19 A. He just popped him on the head with it, just
20 joking around with him, not being -- not doing anything
21 to hurt anybody.

22 Q. What -- did he say anything when he took it off
23 of him and popped him with it?

24 A. He said something like y'all stop goofing
25 around or stop talking or something like that.

1 Q. Okay. Did you see anything in that that was
2 malicious or harmful or caused any injury or anything to
3 Colton?

4 A. No, sir, not at all.

5 Q. Did you -- from the time that he took that
6 headband off or the whole time, did you watch Coach
7 Alexander?

8 A. Yes, sir, just about. Just about the whole
9 time.

10 Q. I mean, if you're a player and the coach is
11 trying to talk to you, I mean, you're expected to look
12 at him, correct?

13 A. Yes, sir.

14 Q. Did you ever see Coach Alexander slap any
15 player?

16 A. No, sir. I never saw Coach slap any player.

17 Q. Other than popping him on the headband and
18 telling him to listen up to whatever he said, did you
19 see him have any other physical contact with Colton that
20 day?

21 A. No, sir.

22 MR. ADKISON: All right. I pass the
23 witness.

24 CROSS-EXAMINATION

25 BY MR. JOHN C. HARDY:

1 Q. Joey, did you ever hear Coach A cuss the boys,
2 players?

3 A. Like cuss at them?

4 Q. Yes.

5 A. Every now and then. Nothing that was really
6 bad.

7 Q. Did he use the "F" word?

8 A. Not that I remember.

9 Q. Use "GD"?

10 A. One or two times.

11 Q. Never heard him telling any of the students to
12 get your "F'n A" over here or anything like that?

13 A. No, nothing like that.

14 Q. You didn't see him strike Blake or Colton?

15 A. No, sir.

16 Q. But you didn't watch them the whole time, did
17 you?

18 A. There was maybe two or three seconds that I
19 wasn't -- didn't have my eyes on him because, like,
20 another coach would be talking.

21 Q. So you were watching him specifically except
22 for two or three seconds --

23 A. Yes, sir.

24 Q. -- Colton and Blake?

25 A. Yes, sir.

1 Q. Any particular reason you singled them out to
2 watch?

3 A. Sir?

4 Q. Any particular reason you singled them out to
5 watch?

6 A. Well, I didn't really single them out. They
7 were just -- I was standing up in the group, and
8 everybody else was kneeling down. We were all kneeled
9 down around him, and they were just, like, they were
10 right there in front in my plain sight.

11 MR. JOHN C. HARDY: Pass the witness.

12 MR. ADKISON: Nothing further.

13 INDEPENDENT HEARING EXAMINER: All right.
14 You can be excused. Remember what I told you earlier.
15 Even though you're excused, you're not allowed to
16 discuss your testimony here today. You can't talk about
17 any of the questions that were asked of you or any
18 of the answers that you gave.

19 THE WITNESS: Yes, sir.

20 INDEPENDENT HEARING EXAMINER: Do you
21 understand that?

22 THE WITNESS: Yes, sir.

23 INDEPENDENT HEARING EXAMINER: Okay.

24 MR. ADKISON: Leonard Cabe, Your Honor.
25 Just sit right there at that chair.

1 INDEPENDENT HEARING EXAMINER: And your
2 full name again?

3 MR. CABE: Leonard Cabe, sir.

4 INDEPENDENT HEARING EXAMINER: How do you
5 spell your last name?

6 MR. CABE: C-a-b-e.

7 INDEPENDENT HEARING EXAMINER: And I
8 previously swore you in. You remember that, right?

9 MR. CABE: Yes, sir.

10 INDEPENDENT HEARING EXAMINER: Go ahead.

11 LEONARD CABE,
12 having been previously duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. ADKISON:

15 Q. Leonard, do you go to school at Troup?

16 A. Yes, sir.

17 Q. You were on the football team in 2015?

18 A. Yes, sir.

19 Q. What grade classification are you?

20 A. Ninth grade.

21 Q. And did you become aware at some point in time
22 that Coach Alexander had been suspended from coaching?

23 A. Yes, sir.

24 Q. And were you at the practice on the Monday
25 prior to his suspension?

1 A. Yes, sir.

2 Q. And at that point in time did you see him take
3 any action as regards to any players on the team?

4 A. Yes, sir.

5 Q. Who?

6 A. It was Colton.

7 Q. Colton WhitSELL?

8 A. Yes, sir, Colton WhitSELL.

9 Q. And did Colton WhitSELL have on a headband?

10 A. Yes, sir.

11 Q. And what was -- when Coach started trying to
12 talk to the team, what was Colton doing?

13 A. I'm not exactly sure, sir, because I was paying
14 attention to Coach Alexander.

15 Q. And that's admiral.

16 A. Yes, sir.

17 Q. Did you see Coach Alexander remove Colton's
18 headband?

19 A. No, sir.

20 Q. Okay. Did you see him at any time strike him,
21 hit him with his hand or --

22 A. No, sir.

23 Q. Did you see him strike any other player with
24 his hand?

25 A. No, sir.

1 MR. ADKISON: That's all I have. Wait.
2 He may have some questions.

3 MR. JOHN C. HARDY: I have nothing of
4 this witness.

5 INDEPENDENT HEARING EXAMINER: Okay. You
6 can be excused. Remember what I told you earlier, not
7 to discuss your testimony with anybody, not to discuss
8 the questions that were asked of you or the answers that
9 you gave. You understand that?

10 THE WITNESS: Yes, sir.

11 INDEPENDENT HEARING EXAMINER: Okay.
12 Thank you.

13 MR. ADKISON: Can we -- John, can we
14 approach?

15 INDEPENDENT HEARING EXAMINER: Do you
16 want to go off the record? Let's go off the record.
17 (Bench conference, off the record.)

18 INDEPENDENT HEARING EXAMINER: Back on
19 the record.

20 MR. ADKISON: Judge, I'm sorry. I got
21 asked a question in the hall. The students, as they've
22 testified, are they released?

23 MR. JOHN C. HARDY: Certainly as far as
24 we're concerned.

25 INDEPENDENT HEARING EXAMINER: Yeah. I

1 mean, that's -- that's y'all's call, but you --

2 MR. JOHN C. HARDY: You can tell them to
3 go back to class if they're released.

4 INDEPENDENT HEARING EXAMINER: Tell me
5 your name.

6 MR. MATT ADAMS: Matt Adams.

7 INDEPENDENT HEARING EXAMINER: Mr. Adams,
8 I swore you in this morning, so you're still under oath.
9 Do you understand that?

10 MR. MATT ADAMS: Yes, sir.

11 INDEPENDENT HEARING EXAMINER: All right.
12 Go ahead, Mr. Adkison.

13 MATT ADAMS,
14 having been previously duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MR. ADKISON:

17 Q. Matt, your name's Matt Adams?

18 A. Yes, sir.

19 Q. You are a freshman at Troup ISD?

20 A. Yes, sir.

21 Q. And you played football last year?

22 A. Yes, sir.

23 Q. You -- there came a time when you became aware
24 that Coach Alexander had been suspended?

25 A. Yes, sir.

1 Q. Going back to the Monday practice before that,
2 do you recall that practice?

3 A. A little bit.

4 Q. Okay. Do you remember in the team meeting
5 before that -- well, kind of after warm-ups and that
6 practice, Coach Alexander having some interaction with
7 Colton Whitsett?

8 A. He took his hair band away because he was
9 playing with it.

10 Q. And did you ever see him at any time, other
11 than maybe pop him on the head with a sweatband, did you
12 ever see him at any time hit him with his hand or shove
13 him or push him or --

14 A. No, sir.

15 Q. Did you ever see him shove or push any players?

16 A. No, sir.

17 MR. ADKISON: Okay. That's all I have.

18 MR. JOHN C. HARDY: Nothing of this
19 witness.

20 INDEPENDENT HEARING EXAMINER: Okay. You
21 can be excused. Remember what I said this morning.
22 You're not to discuss your testimony with anyone. Don't
23 tell anyone the questions that you were asked. Don't
24 tell anyone the answers that you gave. Do you
25 understand that?

1 THE WITNESS: Yes, sir.

2 INDEPENDENT HEARING EXAMINER: Okay. You
3 may go back to class.

4 Tell me your name.

5 MR. WILLIAM ADAMS: William Adams. It's
6 Mitch on there.

7 INDEPENDENT HEARING EXAMINER: Go ahead
8 -- go ahead and give us your full name.

9 MR. WILLIAM ADAMS: William Mitchell
10 Adams.

11 INDEPENDENT HEARING EXAMINER: Okay. And
12 you remember that I swore you in this morning, correct?

13 MR. WILLIAM ADAMS: Yes, sir.

14 INDEPENDENT HEARING EXAMINER: You're
15 still under oath.

16 Mr. Adkison, go ahead.

17 WILLIAM MITCHELL ADAMS,
18 having been previously duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. ADKISON:

21 Q. Mitch, you are a student at Troup Independent
22 School District?

23 A. Yes, sir.

24 Q. You're a football player?

25 A. Yes, sir.

1 Q. Do you recall a time during the last year when
2 Coach Alexander was suspended?

3 A. Yes.

4 Q. Do you recall the practice on the Monday before
5 that?

6 A. Yes, sir.

7 Q. And do you recall some interaction between
8 Coach Alexander and Colton?

9 A. Yes, sir.

10 Q. And did Colton -- what was -- as Coach
11 Alexander was trying to talk, what was Colton doing?

12 A. Laughing and just joking around.

13 Q. And did Coach Alexander take off his sweatband
14 -- headband?

15 A. Yes.

16 Q. Did he ever strike him with his hand?

17 A. No, sir.

18 Q. Did he ever shove him?

19 A. No, sir.

20 Q. Now, in these meetings -- and the last couple
21 guys have been in a hurry. But I mean, as a player,
22 your attention is focused on the coach --

23 A. Yes, sir.

24 Q. -- correct?

25 And seeing Coach Alexander, did he do

1 anything offensive to anybody? Did he shove anybody?
2 Did he hit anybody, anything like that?

3 A. No.

4 Q. Did he tell Colton he needed to be quiet?

5 A. Yes, sir.

6 Q. Multiple times?

7 A. Yeah.

8 MR. ADKISON: I pass the witness.

9 CROSS-EXAMINATION

10 BY MR. JOHN C. HARDY:

11 Q. Mitch, did -- just because you didn't see Coach
12 A hit somebody doesn't mean that it didn't happen, does
13 it?

14 A. No. I was watching him the whole time, but I
15 guess so.

16 Q. You watched Coach A the whole -- the whole
17 practice with --

18 A. While he was --

19 Q. -- with --

20 A. -- while he was talking to us.

21 Q. As far as you're concerned, nothing happened?

22 A. Yes, sir.

23 Q. He use any inappropriate language?

24 A. Not at that time.

25 Q. You've heard him use inappropriate language?

1 A. Yes. But he never used it toward a player.

2 Q. He what?

3 A. Never used it towards a player.

4 Q. Oh. So he just gets out there and talks that
5 way?

6 A. Towards other coaches, just playing around.

7 Q. I see.

8 MR. JOHN C. HARDY: Nothing further of
9 this witness.

10 MR. ADKISON: I have nothing further.

11 INDEPENDENT HEARING EXAMINER: You can be
12 excused and go back to class. Remember what I told you
13 this morning. You're not to discuss your testimony here
14 today. Don't discuss the questions that were asked of
15 you or the answers that you gave in response to those
16 questions.

17 THE WITNESS: Yes, sir.

18 INDEPENDENT HEARING EXAMINER: Do you
19 understand that?

20 THE WITNESS: Yes, sir.

21 INDEPENDENT HEARING EXAMINER: Thank you.

22 MR. ADKISON: That's enough exemplar of
23 those.

24 INDEPENDENT HEARING EXAMINER: Okay.

25 MR. ADKISON: Can I go out and tell them

1 they can go back to class?

2 MR. JOHN C. HARDY: No objection.

3 INDEPENDENT HEARING EXAMINER: Okay.

4 Then they're all excused. No. It's fine.

5 MR. ADKISON: Let me tell them.

6 INDEPENDENT HEARING EXAMINER: All right.

7 Tell me your name.

8 MR. WALKER ADAMS: walker Adams.

9 INDEPENDENT HEARING EXAMINER: All right.

10 Mr. Adams remember that I swore you in this morning, so
11 you're still under oath?

12 MR. WALKER ADAMS: Yes, sir.

13 INDEPENDENT HEARING EXAMINER: You may
14 proceed.

15 WALKER ADAMS,
16 having been previously duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. ADKISON:

19 Q. State your name.

20 A. walker Harris Adams.

21 Q. And what year in school are you at Troup?

22 A. what year? Like, what grade?

23 Q. Freshman, sophomore --

24 A. Freshman.

25 Q. Freshman?

1 A. Yes, sir.

2 Q. And you played football in the '15 season?

3 A. Yes, sir.

4 Q. And you became aware at some point in time that
5 Coach Alexander was suspended?

6 A. Yes, sir.

7 Q. And that would have been, like, on -- didn't
8 show up for practice on Wednesday or Thursday, but going
9 back to the Monday before that?

10 A. Yes, sir.

11 Q. Did you observe Coach Alexander's interactions
12 with any of the players, Colton Whitsett, Trey, anybody
13 else?

14 A. Colton.

15 Q. Okay.

16 A. I didn't see Trey's.

17 Q. And did Coach Alexander ever hit Colton
18 Whitsett or slap him with his hand?

19 A. I wouldn't call it a hit at all.

20 Q. What was it?

21 A. Just a tap, friendly tap.

22 Q. Friendly tap. It's been described by another
23 witness as like you have your hand sitting right here
24 and close your finger --

25 A. Something like it. Was nothing big at all.

1 MR. ADKISON: All right. That's all I
2 have.

3 THE WITNESS: Am I done?

4 MR. ADKISON: He might have some.

5 CROSS-EXAMINATION

6 BY MR. JOHN C. HARDY:

7 Q. I have a couple of questions, walker. Did
8 anybody talk to you before your testimony before you
9 came in here?

10 A. No, sir.

11 Q. Did you talk to Joey?

12 A. No, sir.

13 Q. Did you ever hear Coach Alexander use
14 inappropriate language?

15 A. Every now and then, but it wasn't nothing
16 that...

17 Q. Just the way you talk every day?

18 A. Just about.

19 MR. JOHN C. HARDY: Nothing further of
20 this witness.

21 MR. ADKISON: Okay.

22 INDEPENDENT HEARING EXAMINER: You can be
23 excused. Remember what I told you this morning. You're
24 not to discuss your testimony with anyone. Don't
25 discuss the -- the questions that you were asked or the

1 answers that you gave in response to those questions.
2 okay?

3 THE WITNESS: Yes, sir.

4 MR. ADKISON: We rest.

5 INDEPENDENT HEARING EXAMINER: Okay. Do
6 you want to make a closing statement, Mr. Hardy?

7 MR. JOHN C. HARDY: Sure.

8 INDEPENDENT HEARING EXAMINER: Okay.

9 PETITIONER'S CLOSING STATEMENT

10 MR. JOHN C. HARDY: Very briefly. When
11 we started out this morning, Judge, we felt like that we
12 would be able to show that Coach Alexander, as the head
13 football coach and employed at Troup ISD, used
14 inappropriate means to communicate with the students.
15 That included inappropriate language as well as
16 inappropriate touching of the students. We think that
17 the evidence is clear from credible witnesses that Coach
18 Alexander abused his students, that they testified what
19 had happened, that they were humiliated and it hurt, and
20 it was inappropriate contact.

21 There was some discussion about corporal
22 punishment, but I'm not going to get into that because
23 it's totally off base at this point.

24 We would submit from the school
25 district's standpoint that it's very clear that an

1 investigation was done. The statements were taken. As
2 the hearing officer knows from the school law, he's in
3 the middle of a two-year contract. The Board had the
4 opportunity to wait until ten days before the last day
5 of instruction next year before they had a hearing.
6 This is a situation that was very clear, that the Coach
7 should not be working with the students here at Troup
8 ISD.

9 INDEPENDENT HEARING EXAMINER: Thank you.
10 Mr. Adkison.

11 RESPONDENT'S CLOSING STATEMENT

12 MR. ADKISON: The real issues that are
13 here are whether or not the proof adduced rises to the
14 level of terminating a contract for good cause however
15 that nebulous term comes to be defined. Under the state
16 constitution, that is an extremely nebulous term, and
17 what you've seen is, is that on one hand in this
18 instance with a bad won-loss record for two years, if
19 it's conduct by Coach Alexander it's good cause, but if
20 it's conduct by another coach, absolutely nothing's
21 done.

22 What you've also seen is, is that an
23 investigation -- I don't see how it is that the
24 superintendent can come to you with a straight face and
25 ask you to base anything upon his investigation because

1 you've seen the document that is in evidence, Mr.
2 Hardy's assertions to me based upon meeting with the
3 superintendent that everybody he interviewed he took a
4 statement from except Colton and that all those
5 interviews support his decision. And then comes in a
6 coach on that staff who was on that field that day and
7 one by one directly refutes every one of the allegations
8 that are made against Coach Alexander by this district.

9 The reason for the break was the trial
10 lawyer in me says this is done. It's done. The
11 superintendent has come in front of you, tried to tell
12 you that he conducted a thorough and impartial
13 investigation, but he absolutely failed to reveal, even
14 to the school's lawyers -- remember I told you earlier
15 this morning this stuff's not Mr. Hardy's fault. He
16 chose to tell John Hardy just what he wanted John Hardy
17 to hear. He chose to tell that Board just exactly what
18 he wanted that Board to hear, and they can't get around
19 -- I mean he comes when he starts and he says all the
20 coaching staff this, all the coaching staff that.

21 Well, I took the statements out of the
22 people that saw anything. Well, the one he included
23 from a coach is John Eastman, and John says he didn't
24 see it. At some form, somewhere, that's not going to be
25 right. And then on top of that to have an undisclosed

1 coach come in and say no, I was there, I sat there and
2 watched. I can tell you in detail what happened. It
3 was not offensive. At one point he was laughing with
4 them and trying to get them to be quiet.

5 The language, not any language we hadn't
6 heard anywhere else. I mean, the superintendent really
7 believed that those athletes don't use any word that
8 they allege the coach has said themselves. It's in
9 their textbook and their curriculum. If they didn't
10 know them before, the Troup ISD's taught it to them.

11 The racial slur is absolutely outrageous.
12 So what does that tell you as an impartial hearing
13 officer about where we are? It's result oriented, and
14 it's not result oriented towards anything Dennis
15 Alexander's done except failed to put enough ws in a
16 column.

17 I want to talk about the reputation of a
18 Hall of Fame coach, and this is -- it almost seems like
19 the superintendent set out to make every accusation he
20 could make that would blacken his name, racial slur,
21 language, striking a player. But the death nail to this
22 investigation is the way you now know that the
23 information was picked and chosen and how witnesses were
24 ignored, how exculpatory evidence and denials of
25 evidence, outright denials of the way this happened not

1 even included. More importantly, not given to the
2 school board at the time they deliberated on this
3 resolution to proceed.

4 What's worse is, is that if you read the
5 Texas Penal Code, the failure to record that information
6 and the failure to present a document in a hearing such
7 as this and not include information that -- he's never
8 gotten up here and said he didn't talk to Coach Greer.
9 And this record establishes a criminal violation because
10 presenting the incomplete document is a violation of the
11 law, violation of the penal law.

12 So when you take this on balance -- you
13 remember the other thing that I told you this morning?
14 You're the last chance to save this school district from
15 the superintendent and the whitells, because even under
16 the Texas Constitution, to have -- I mean what does it
17 say to you that a Board member is sitting in the office,
18 by the superintendent's decision, when he initially
19 calls the coach in to ask him about the situation, and
20 that as soon as the Board member leaves, he tells the
21 coach he's suspended. What kind of message does that
22 send? What kind of signal is that?

23 Now, from that point on, he orally
24 suspended him, gave him no written notice of the reasons
25 or grounds for two months. Now, this is not the forum

1 to talk about constitutionally in the United States
2 Constitution when you've got to have a hearing, but it
3 is the appropriate forum to talk about the notice
4 provisions under the Education Code of a suspension and
5 the adequacy of that. Two months. An oral suspension.
6 No written notice of it.

7 On sum and substance, the decision you've
8 got to make is do you -- do you blacken the reputation
9 of a literal Hall of Fame coach over accusations like
10 this when one member of the coaching staff says that
11 just didn't happen and no other member of the coaching
12 staff is called to say it did. Not a single one of
13 them.

14 And my thought as a trial lawyer is we'd
15 put, you know, kids up here, you know, that he may have
16 called out for their performance and they got their
17 feelings hurt over being called out by name about what
18 they did or didn't do on the football field. Then I'd
19 put kids up here that say, oh, yeah, I mean, he tapped
20 him on the back of the head. We can do that all day.
21 But that doesn't reach the issue of what's right.

22 And simply because the superintendent set
23 out on -- you know, and I can understand, you know. You
24 had two bad years. You're in the middle of the second
25 bad year, and I mean, people are, you know, as the

1 school board president said, you know the knives come
2 out. You get a school board member saying he
3 embarrassed my kid yesterday in practice. I want
4 something done about it. I suspect he thought he was
5 going to be a hero by day's end. And so that's as plain
6 as I can tell you. That's as blunt as I can be about
7 it, and I think that you know in your own heart that's
8 exactly what happened based on this record. I
9 appreciate you listening to us.

10 INDEPENDENT HEARING EXAMINER: Okay.

11 PETITIONER'S REBUTTAL CLOSING STATEMENT

12 MR. JOHN C. HARDY: Thank you, Mr.
13 Adkison. Great jury argument, and we appreciate that.
14 I would just come back on rebuttal, and if he wants to
15 talk about who was available or who didn't testify,
16 Coach Alexander sat here all day and didn't testify.
17 That's -- that's their prerogative, and they have a
18 right to call who they want. But the won-loss record
19 really didn't come into play, just like the record that
20 Mr. Alexander had previously before he came to Troup.
21 That's -- that's not part of what we're here about.

22 We're here about because it became
23 apparent after the investigation and confirmation that
24 students had been abused, both in the way that they were
25 addressed and the way that they were physically touched.

1 I think that it's clear we're all grown-ups in this
2 room. Language, you can walk down the sidewalk every
3 day and hear things that you don't want to. The book
4 language, I dare say that the witnesses that I saw
5 didn't read that book in Pre-AP. They may know the
6 words, but they weren't the ones that were subjected to
7 that language that was approved in the literature from
8 the State. And I'm not saying I agree with all the
9 literature or whatever's out here. Whether you're in
10 Shakespeare or Tolstoy, there's language out there that
11 we may not approve and don't want in our living rooms or
12 houses or our dinner tables. But the fact of the matter
13 is, the way the coaches and even their witnesses said
14 that language was inappropriate was addressed towards
15 the coaches and staff. That's not the way that you
16 build comradery, and that's not the way that you
17 motivate kids. That's not the way you motivate a staff.

18 The simple matter is for whatever reason,
19 Coach Alexander overstepped the bounds of a public
20 employee in the handling of the situation with the
21 students and that there's not a place for him at Troup
22 ISD.

23 INDEPENDENT HEARING EXAMINER: Okay.
24 Thank you both. Let's go off the record.

25 (Brief recess.)

1 INDEPENDENT HEARING EXAMINER: Okay.
2 we're back on the record after a brief break. In a
3 discussion, I've asked and counsel has agreed to the
4 following timeline. The court reporter is going to get
5 us all a rough copy, working copy of the transcript by
6 Wednesday morning so that we can all begin our work.
7 Mr. Alexander's counsel and the district's counsel has
8 agreed to give me their proposed findings of fact and
9 conclusions of law by first thing Monday morning. And
10 at the same time the court reporter will get us -- will
11 provide us with a final transcript at that time so that
12 I can then take that and formulate my recommendation to
13 the Board.

14 THE REPORTER: Now, the names won't be
15 redacted.

16 INDEPENDENT HEARING EXAMINER: Oh, yes.
17 Thank you. The -- the thing that I forgot to -- forgot
18 to discuss earlier, obviously we had a, kind of a
19 laundry list of students that testified, and rather than
20 trying to come up with a cheat sheet ahead of time on
21 who those students are and y'all trying to keep them
22 straight, too, in your cross-examinations of other
23 witnesses, I just decided to let it go forward. The
24 transcript itself will have those -- those students'
25 names in it. I will create a cheat sheet that redacts

1 out any references, specific references to the students,
2 and they won't even be identified by -- by initials
3 because even that's not appropriate. So it will be
4 Student A, Student B, Student C, Student, D. The
5 coaches will be identified by name. They don't have the
6 same protection. But I will provide y'all with that
7 cheat sheet. The transcript will not be redacted out.
8 The transcript doesn't go down to Austin. The
9 transcript will be provided to the Board in their
10 recommendation, and they're entitled to have the
11 students' identity because they're already charged with
12 protecting that.

13 To the extent that -- to the extent that
14 you-all include student names in your proposed findings
15 of fact and conclusions of law, that's fine. Just do
16 them by name, and then I will -- in doing that I will
17 pull that out and substitute them by their identifiers
18 according to my cheat sheet. And then obviously, if
19 there's any -- if there's any reference to them or any
20 reference to the record that contains student names,
21 that will be redacted out in my recommendation when it
22 goes to Austin.

23 But for the recommendation that goes to
24 the Board, I will provide both of y'all with an
25 unredacted recommendation, too, so that it reads a

1 little bit cleaner. So, in other words, you'll both get
2 two recommendations, and sometimes that's -- that's
3 confusing. So I want to make sure we're clear on that
4 on the front end. Okay?

5 MR. ADKISON: Yes, sir.

6 INDEPENDENT HEARING EXAMINER: Anything
7 else?

8 MR. JOHN C. HARDY: I do have one other
9 housekeeping matter. I have -- I know we passed around,
10 but these are the original exhibits that were originally
11 marked, and I'll give those to the court reporter here
12 so she's got the ones there. Mr. Adkison can certainly
13 look through them. I have pulled the ones that we did
14 not admit.

15 INDEPENDENT HEARING EXAMINER: Okay.
16 Perfect. And Mr. Adkison, refresh my memory. Oh,
17 Exhibit 1 was the book. Okay.

18 All right. If neither of y'all have
19 anything else, then we will adjourn. I appreciate it.
20 I think you guys both did a great job shedding light on
21 the issues. So now the -- the fun part starts. Thank
22 you.

23 MR. JOHN C. HARDY: Thank you.

24 MR. ADKISON: Thank you.

25 INDEPENDENT HEARING EXAMINER: Off the

1 record.

2 (Briefly off the record.)

3 INDEPENDENT HEARING EXAMINER: Back on
4 the record. Back on the record real quick. The -- the
5 Exhibit 1 that was marked by Mr. Alexander's attorney is
6 a book, "The Things They Carried" by Tim O'Brien, 2009
7 edition, and the ISBN is 978-0-618-70641-9.

8 THE REPORTER: Okay.

9 INDEPENDENT HEARING EXAMINER: Off the
10 record.

11 (The proceedings concluded.)

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1 THE STATE OF TEXAS


2 COUNTY OF CHEROKEE

3 I, Terri Lynn Smith, Certified Shorthand
4 Reporter in and for the State of Texas, hereby certify
5 that the above and foregoing contains a true
6 and correct transcription of all portions of evidence
7 and other proceedings to be included in this volume of
8 the Reporter's Record, in the above-styled and numbered
9 cause, all of which occurred in open proceedings and
10 were reported by me.

11 I further certify that this Reporter's Record
12 of the proceedings truly and correctly reflects the
13 exhibits, if any, admitted into evidence.

14 I further certify that the total cost for the
15 preparation of this Reporter's Record is \$_____ and
16 was paid/will be paid by _____.

17 Certified to this the 6th day of March, 2016.

18
19 
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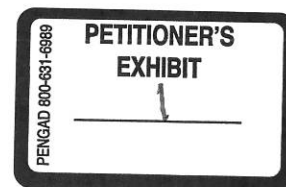
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DUAL-ASSIGNMENT TERM CONTRACT

Date given Employee 2/10/15
Date returned by Employee 2/19/15

1. **Position.** The District agrees to employ Dennis Alexander (you) as Athletic Director / Head Football Coach.
2. **Term.** You will be employed on a 12-month basis for the 2015-2017 school year(s), according to the hours and dates set by the District as they exist or may hereafter be amended.
 - 2.1 **Term for Dual-Assignment.** Your dual assignment may require you to begin work before the start date specified in paragraph 2 and to continue to work after the end date specified in paragraph 2. Your compensation under paragraph 6.1 includes pay for this additional work.
3. **Credentials and Criminal History Review.**
 - 3.1 **Certification.** You agree to provide, before your start date of each school year, the certification, service records, documentation of highly-qualified status, licenses, and other records and information required by law, the Texas Education Agency (TEA), the State Board for Educator Certification (SBEC), or the District. You agree to maintain any required certification or license throughout the term of this Contract. If you fail to fulfill the requirements necessary to extend a temporary or emergency certificate or permit, or if your certification expires, is canceled, or is revoked, the District may provide you with notice that this Contract is void pursuant to Texas Education Code section 21.0031.
 - 3.2 **Highly Qualified Status.** If you are employed as a classroom teacher, you agree to become and remain "highly qualified," as that term is defined under the No Child Left Behind Act, 20 U.S.C. § 7801(23), and by TEA, to the extent required by law.
 - 3.3 **Criminal History Review.** If required by the District, TEA, or SBEC, you agree to submit to a review of your state or national criminal history record information.
4. **Representations.**
 - 4.1 **Beginning of Contract.** You understand that a criminal history record acceptable to the District, at its sole discretion, is a condition of this Contract. You represent that you have disclosed to the District, in writing, any conviction, no contest or guilty plea, deferred adjudication, or other adjudication for any felony or any offense listed at 19 Texas Administrative Code § 249.16(b).
 - 4.2 **During Contract.** You agree that, during the term of this Contract, you will notify the Superintendent in writing of any arrest, indictment, conviction, no contest or guilty plea, deferred adjudication, or other adjudication for any felony or any offense listed at 19 Texas Administrative Code § 249.16(b). You agree to provide the notification within seven calendar days or any shorter period specified in Board policy.



DUAL-ASSIGNMENT TERM CONTRACT

- 4.3 **False Statements and Misrepresentations.** You represent that any required records or information in your employment application are true and correct. Any false statements, misrepresentations, omissions of requested information, or fraud by you concerning any required records or in the employment application may be grounds for termination or nonrenewal, as applicable.

5. Duties.

- 5.1 **General Standard.** You agree to perform the duties of your assigned position, as prescribed by state law and regulations and by the District, with reasonable care, skill, and diligence.
- 5.2 **Rules.** You agree to comply with all Board and District directives, state and federal laws and rules, and District policy and regulations, as they exist or may hereafter be amended. In addition, you agree to comply with all applicable rules of the University Interscholastic League.
- 5.3 **Assignment/Reassignment.** You understand that the District has the right to assign or reassign you to positions, duties, or additional duties and to make changes in responsibilities, work, or transfers, at any time during this Contract.
- 5.4 **Supplemental Duty.** You understand that this Contract does not apply to assignments of or payments for supplemental duties. This Contract does not create a property right to continued employment in any supplemental duty. If you are assigned to a supplemental duty, the start and end dates for the supplemental duty may be different from the start and end dates under this Contract.
- 5.5 **Dual Assignment.** The term "supplemental duty" does not include your dual assignment under this Contract. This Contract constitutes a unified agreement for both your primary assignment and your dual assignment. District action under this Contract concerning either assignment shall constitute the same action for the other assignment. You may not continue employment in one assignment without continuing employment in both assignments and you may not resign one assignment without resigning both.

6. Compensation.

- 6.1 **Salary.** The District shall pay you according to the compensation plan adopted by the Board each school year. Your salary includes consideration for all assigned duties, responsibilities, and tasks, including your dual assignment, regardless of the actual number of hours or days (including days not designated on the school calendar) that you work during this Contract. Your salary shall be reduced for absences in excess of authorized, paid leave.
- 6.2 **Furloughs.** If the District implements a furlough under Texas Education Code section 21.4021, your salary will be reduced in proportion to the number of furlough days. The reduction will be equally distributed over the remainder of the applicable school year.
- 6.3 **Annualized Salary.** Your salary will be paid out over 12 months, regardless of the work schedule specified in paragraph 2.



DUAL-ASSIGNMENT TERM CONTRACT

- 6.4 **Incentive and Performance Pay.** If you qualify, you may receive incentive pay or pay for performance under the District's compensation plan, federal law, or state law, including Texas Education Code chapter 21, subchapter O. An incentive payment is not an entitlement as part of your salary.
- 6.5 **Overpayments.** You agree that the District may deduct any overpayments under this Contract from one or more of your paychecks.
- 6.6 **Benefits.** The District shall provide you with benefits as provided by state law and Board policy. The District reserves the right to amend its policies at any time during the term of this Contract to reduce or increase these benefits, at the Board's sole discretion.
7. **Other Provisions.**
- 7.1 **Equipment and Reports.** You agree to satisfactorily submit or account for all grades, reports, school equipment, or other required items upon request from the District.
- 7.2 **Special Funding.** If your position is funded by grants, federal funding, or other special funding, you understand that your employment is expressly conditioned on the availability of full funding for the position. If full funding becomes unavailable, your employment is subject to termination or nonrenewal, as applicable.
- 7.3 **Addenda.** This Contract does/does not (circle one) include one or more Addenda, as follows:
- (1) Addendum A: Retire/Rehire Addendum
8. **Suspension.** In accordance with Texas Education Code chapter 21, the District may suspend you without pay during the term of this Contract for good cause as determined by the Board.
9. **Termination and Nonrenewal of Contract.**
- 9.1 **Termination of Contract.** This Contract will terminate, in accordance with the procedures at Texas Education Code chapter 21, if the Board determines that any of the following exists: good cause, financial exigency, or a program change. This Contract will also terminate if you provide written notice of resignation before the penalty-free resignation date (see Tex. Educ. Code § 21.210).
- 9.2 **Nonrenewal.** The District may nonrenew this Contract in accordance with Texas Education Code chapter 21, as applicable, and Board policy.
10. **General Provisions.**
- 10.1 **Amendment.** This Contract may not be amended unless you and the District agree, in writing, to an amendment.
- 10.2 **Severability.** If any provision in this Contract is held to be invalid, illegal, or unenforceable, the other provisions of the Contract will remain in full force and effect.

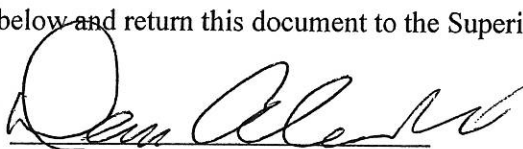


RETIRE/REHIRE ADDENDUM

If you are receiving or have received retirement benefits through the Teacher Retirement System of Texas (TRS) or any other retirement program (Retirement Benefits), you acknowledge the following:

1. The District cannot and does not make any guarantees regarding your continued right to receive the Retirement Benefits.
2. You are relying on your own investigation and understanding of the law and upon the guidelines, rules, and regulations regarding employment after retirement of the program(s) under which you retired. You are not relying on any statements made by the District regarding the effect of District employment on your Retirement Benefits.
3. You agree not to sue or otherwise bring any claim against the District, its Board of Trustees, its Superintendent, or any other employee or agent of the District for any loss or reduction in the value of your Retirement Benefits.
4. If you retired under the TRS, the District must report your employment to the TRS. You agree not to sue or otherwise bring any claim against the District, its Board of Trustees, its Superintendent, or any other employee or agent of the District based on such reports.

Please sign below and return this document to the Superintendent.

Employee: 

Date signed: 2-19-15



Blake Ataway
10-22-15

On Monday Coach A was going on his normal Monday Tyrant when he slapped me in the back of the head for no apparent reason. Then about 30 seconds later he slapped Colton Whistler across the face. Coach A has used many racial slurs. The one I remember most vividly was when Nick Buchner wanted to take a break and get water like the rest of the linemen who were getting subbed out to get ~~water~~ water and Coach A said "We're going back to the old days where you don't get a break or any water." Then there was also a halftime speech at Frankston that was very uncalled for he went on to say we were gutless and pathetic and other things when the score was only 14-10. He has cursed at the trainers for not even giving them a chance to bring the water out. He even went on to tell us on the Thursday before the A-G that we were gonna lose. No coach should ever say that to a team. He has also been verbally ~~very~~ abusive to multiple players on the team. He does not motivate like a coach should. ~~instead~~ ^{instead} he brings the team down.

Blake Ataway

PENGAD 800-631-6989

PETITIONER'S
EXHIBIT

2

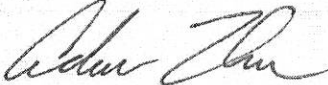
10-21-15

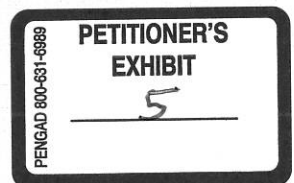
As per conversation with Mr. Bird and Mr. Smith. I was asked to explain a situation about Colton Whitsell getting slapped by Coach Alexander.

I did not witness a slap by Coach Alexander - I did know it happened because another player, Trey Wade, came to my drill talking about Colton getting slapped. Later that evening Colton's dad contacted me about it by phone.

I do not believe that anything was malicious or even by being mad. I believe that Coach was playing around and joking.

When asked about language on the field I said yes there is bad language - excessive at times.


Adam Thomas
10/24/15



Monday afternoon ^{10/19/2015} at football practice while Coach Alexander had the team up on a knee to talk before practice began, I watched him (open handed) slap an athlete, Colton Whitsett on the face in front of the rest of the football team.

The hit was enough to cause a noise from the distance I was standing - about 10 yards away. ~~The team~~ I was not the only adult who was present at the time. A majority of the Varsity coaches were gathered as well.

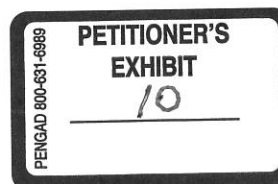
He also shoved a player over who was kneeling close to him, Demontrae Wade.

Sam Hamilton
10/22/15

EMPLOYEE STANDARDS OF CONDUCT
REPORTS TO STATE BOARD FOR EDUCATOR CERTIFICATION

DHB
(LEGAL)

REPORT REQUIRED	In addition to the reporting requirement under Family Code 261.101 [see FFG], a superintendent shall notify the State Board for Educator Certification (SBEC) if:
CRIMINAL HISTORY	1. An educator employed by or seeking employment with the district has a reported criminal history and the district obtained information about the educator's criminal record by a means other than the criminal history clearinghouse established by the Texas Department of Public Safety;
TERMINATION	2. An educator's employment at the district was terminated based on evidence that the educator engaged in an act of misconduct listed below;
RESIGNATION	3. An educator resigned and there is evidence that the educator engaged in an act of misconduct listed below; or
ASSESSMENT INSTRUMENT	4. The educator engaged in conduct that violated the assessment instrument security procedures established under Education Code 39.0301.
"REPORTED CRIMINAL HISTORY"	<p>"Reported criminal history" means information concerning any formal criminal justice system charges and dispositions. The term includes arrests, detentions, indictments, criminal informations, convictions, deferred adjudications, and probations in any state or federal jurisdiction.</p> <p><i>Education Code 21.006, 22.087; 19 TAC 249.3(43), .14(d)</i></p>
REPORTABLE MISCONDUCT	<p>A superintendent shall make a report to SBEC under Education Code 21.006 if there is evidence that the educator:</p> <ol style="list-style-type: none">1. Sexually or physically abused or otherwise committed an unlawful act with a student or minor;2. Was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor;3. Possessed, transferred, sold, or distributed a controlled substance, as defined by Health and Safety Code Chapter 481 or by 21 U.S.C. Section 801 et seq.;4. Illegally transferred, appropriated, or expended funds or other property of the district;5. Attempted by fraudulent or unauthorized means to obtain or alter a professional certificate or permit for the purpose of promotion or additional compensation; or6. Committed a criminal offense or any part of a criminal offense on school property or at a school-sponsored event.



EMPLOYEE STANDARDS OF CONDUCT
REPORTS TO STATE BOARD FOR EDUCATOR CERTIFICATION

DHB
(LEGAL)

"ABUSE"

"Abuse" includes the following acts or omissions:

1. Mental or emotional injury to a student or minor that results in an observable and material impairment in the student's or minor's development, learning, or psychological functioning;
2. Causing or permitting a student or minor to be in a situation in which the student or minor sustains a mental or emotional injury that results in an observable and material impairment in the student's or minor's development, learning, or psychological functioning;
3. Physical injury that results in substantial harm to a student or minor, or the genuine threat of substantial harm from physical injury to the student or minor, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline; or
4. Sexual conduct harmful to a student's or minor's mental, emotional, or physical welfare.

19 TAC 249.3(1)

"SOLICITATION OF A
ROMANTIC
RELATIONSHIP"

"Solicitation of a romantic relationship" means deliberate or repeated acts that can be reasonably interpreted as the solicitation by an educator of a relationship with a student that is romantic in nature. A romantic relationship is often characterized by a strong emotional or sexual attachment and/or patterns of exclusivity, but does not include appropriate educator-student relationships that arise out of legitimate contexts such as familial connections or longtime acquaintance. The following acts, considered in context, may constitute prima facie evidence of the solicitation by an educator of a romantic relationship with a student:

1. Behavior, gestures, expressions, or communications with a student that are unrelated to the educator's job duties and evidence a romantic intent or interest in the student, including statements of love, affection, or attraction. Factors that may be considered in determining the romantic intent of such communications or behavior include:
 - a. The nature of the communications;
 - b. The timing of the communications;
 - c. The extent of the communications;
 - d. Whether the communications were made openly or secretly;

EMPLOYEE STANDARDS OF CONDUCT
REPORTS TO STATE BOARD FOR EDUCATOR CERTIFICATION

DHB
(LEGAL)

- e. The extent that the educator attempts to conceal the communications;
 - f. If the educator claims to be counseling a student, SBEC may consider whether the educator's job duties included counseling, whether the educator reported the subject of the counseling to the student's guardians or to the appropriate school personnel, or, in the case of alleged abuse or neglect, whether the educator reported the abuse or neglect to the appropriate authorities; and
 - g. Any other evidence tending to show the context of the communications between educator and student.
- 2. Making inappropriate comments about a student's body, creating or transmitting sexually suggestive photographs or images, or encouraging the student to transmit sexually suggestive photographs or images.
 - 3. Making sexually demeaning comments to a student.
 - 4. Making comments about a student's potential sexual performance.
 - 5. Requesting details of a student's sexual history.
 - 6. Requesting a date, sexual contact, or any activity intended for the sexual gratification of the educator.
 - 7. Engaging in conversations regarding the sexual problems, preferences, or fantasies of either party.
 - 8. Inappropriate hugging, kissing, or excessive touching.
 - 9. Providing the student with drugs or alcohol.
 - 10. Suggestions that a romantic relationship is desired after the student graduates, including post-graduation plans for dating or marriage.
 - 11. Any other acts tending to show that the educator solicited a romantic relationship with the student.

19 TAC 249.3(50)

A superintendent may notify SBEC of any educator misconduct that the superintendent believes in good faith may be subject to sanctions by SBEC. *19 TAC 249.14(d)*

DEADLINE TO REPORT The superintendent must notify SBEC in writing not later than the seventh day after the date the superintendent knew about an

EMPLOYEE STANDARDS OF CONDUCT
REPORTS TO STATE BOARD FOR EDUCATOR CERTIFICATION

DHB
(LEGAL)

	employee's termination of employment following an alleged incident of misconduct. <i>Education Code 21.006(c)</i>
CONTENTS OF REPORT	<p>The report shall include the name or names of any student or minor who is the victim of abuse or unlawful conduct by an educator. The report shall, at a minimum, describe in detail the factual circumstances requiring the report and identify the subject of the report by providing the following available information:</p> <ol style="list-style-type: none">1. Name and any aliases;2. Certificate number, if any, or social security number;3. Last known mailing address and home and daytime phone numbers;4. All available contact information for any alleged victim or victims; and5. Name or names and any available contact information of any relevant witnesses to the circumstances requiring the report. <p><i>Education Code 21.006(c); 19 TAC 249.14(e)</i></p> <p>A superintendent shall include the name of a student or minor who is the victim of abuse or unlawful conduct by an educator, but the name of the student or minor is not public information under Government Code Chapter 552. [See GBAA] <i>Education Code 21.006(h)</i></p>
NOTICE	<p>A superintendent shall notify the board and the educator of the filing of a written report with SBEC. <i>Education Code 21.006(d)</i></p>
SANCTIONS FOR FAILURE TO REPORT	<p>A superintendent who fails to timely make a required report is subject to sanctions by SBEC. <i>Education Code 21.006(f); 19 TAC 249.14(e)</i></p>
IMMUNITY	<p>A superintendent who, in good faith and while acting in an official capacity, files a report with SBEC is immune from civil or criminal liability that might otherwise be incurred or imposed. <i>Education Code 21.006(e)</i></p>

TERM CONTRACTS
SUSPENSION/TERMINATION DURING CONTRACT

DFBA
(LEGAL)

SUSPENSION
WITHOUT PAY

The Board may, for good cause as determined by the Board, suspend an employee without pay:

1. Pending discharge, or
2. In lieu of termination.

The suspension may not extend beyond the end of the school year.
Education Code 21.211(b)

BACK PAY

If an employee is not discharged after being suspended without pay pending discharge, the employee is entitled to back pay for the period of suspension. *Education Code 21.211(c)*

GROUND FOR
DISMISSAL

The Board may terminate a term contract and discharge a term contract employee at any time for:

1. Good cause as determined by the Board; or
2. A financial exigency that requires a reduction in personnel.

Education Code 21.211(a)

NOTICE

Before any term contract employee is dismissed for good cause, the employee shall be given reasonable notice in writing of the charges against him or her and an explanation of the District's evidence, set out in sufficient detail to fairly enable the employee to show any error that may exist. *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532 (1985) [See DF(EXHIBIT)]

HEARING

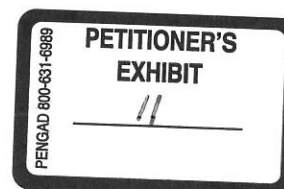
If a term contract employee desires a hearing before an independent hearing examiner, the employee must file a written request with the Commissioner not later than the 15th day after the date the employee receives notice of the proposed termination or suspension without pay. The employee must provide the District with a copy of the request and must provide the Commissioner with a copy of the notice.

The parties may agree in writing to extend by not more than ten days the deadline for requesting a hearing.

Education Code 21.251(a), 21.253 [See DFD]

FINANCIAL
EXIGENCY

An employee who is protesting proposed action to terminate a term contract at any time on the basis of a financial exigency declared under Education Code 44.011 [see CEA] that requires a reduction in personnel must notify the Board in writing not later than the tenth day after the date the employee receives notice of the proposed action. The employee is entitled to a hearing in the manner provided under Education Code 21.207 for nonrenewal of a term contract [see DFBB] or a hearing under Education Code Chapter 21, Subchapter F, as determined by the Board. *Education Code 21.159*



TERM CONTRACTS
SUSPENSION/TERMINATION DURING CONTRACT

DFBA
(LEGAL)

SUSPENSION WITH
PAY

The employee may be suspended with pay pending the outcome of the dismissal hearing. Moore v. Knowles, 482 F.2d 1069 (5th Cir. 1973)

Note: See DF regarding circumstances in which a certified employee's dismissal must be reported to the State Board for Educator Certification (SBEC).

Agenda of Special Meeting

The Board of Trustees Troup ISD

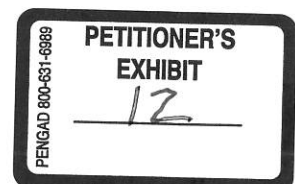
A Special Meeting of the Board of Trustees of Troup ISD will be held November 3, 2015, beginning at 6:00 PM in the Board Room, 201 N. Carolina, Troup.

If, during the course of the meeting, discussion of any item on the agenda should be held in a closed meeting, the Board will conduct a closed meeting in accordance with the Texas Open Meetings Act, Government Code, Chapter 551, Subchapters D and E. Before any closed meeting is convened, the presiding officer will publicly identify the section or sections of the Act authorizing the closed meeting. All final votes, actions, or decisions will be taken in open meeting.

The subjects to be discussed or considered or upon which any formal action may be taken are as listed below. Items do not have to be taken in the order shown on this meeting notice.

Unless removed from the consent agenda, items identified within the consent agenda will be acted on at one time.

1. Call the meeting to order
2. Pledge of Allegiance
3. Prayer
4. Members Present
5. Executive Session
 - Consultation with Board's Attorney, 551.071; Discussion of Real Property, 551.072; Personnel Matters, 551.074
 - A. Discussion of Contract of Athletic Director Dennis Alexander 551.071; 551.074
6. Results of Executive Session
 - A. Possible Action on Contract of Athletic Director Dennis Alexander
7. Adjourn



Troup Independent School District

Fax: 903-842-4563

P.O. Box 578

Troup, Texas 75789

Phone 903-842-3067

Stuart Bird, Superintendent
Troup Independent School District
P.O. Box 578
Troup, TX 75789

October 27, 2015

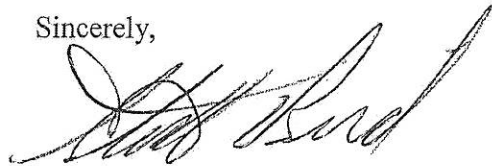
Texas Education Agency
1701 N. Congress Avenue
Austin, Texas 78701

RE: Allegation of Educator Misconduct

This letter is to notify the State Board for Educator Certification that Mr. Dennis D. Alexander (Educator Certificate #10752) has been suspended indefinitely by the Troup Independent School District for striking a student. Mr. Alexander has been placed on administrative leave due to actions currently being investigated and of which the District has been advised are inappropriate. Mr. Alexander has not been terminated at this time and there has been no formal action by the Troup Board of Trustees.

Please do not hesitate to contact me if you have any questions.

Sincerely,

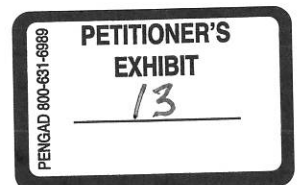


Stuart Bird
Superintendent of Schools
Troup Independent School District

High School
903-842-3065

Middle School
903-842-3081

Elementary School
903-842-3071



Notice of Special Meeting

The Board of Trustees Troup ISD

A Special Meeting of the Board of Trustees of Troup ISD will be held November 3, 2015, beginning at 6:00 PM in the Board Room, 201 N. Carolina, Troup.

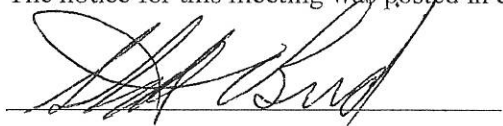
If, during the course of the meeting, discussion of any item on the agenda should be held in a closed meeting, the Board will conduct a closed meeting in accordance with the Texas Open Meetings Act, Government Code, Chapter 551, Subchapters D and E. Before any closed meeting is convened, the presiding officer will publicly identify the section or sections of the Act authorizing the closed meeting. All final votes, actions, or decisions will be taken in open meeting.

The subjects to be discussed or considered or upon which any formal action may be taken are listed below. Items do not have to be taken in the same order as shown on this meeting notice.

1. Call the meeting to order
2. Pledge of Allegiance
3. Prayer
4. Members Present
5. Executive Session
 - Consultation with Board's Attorney, 551.071; Discussion of Real Property, 551.072; Personnel Matters, 551.074
 - A. Discussion of Contract of Athletic Director Dennis Alexander 551.071; 551.074
6. Results of Executive Session
 - A. Possible Action on Contract of Athletic Director Dennis Alexander
7. Adjourn

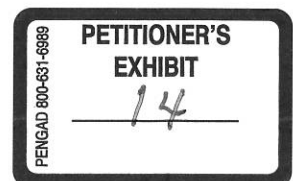
If, during the course of the meeting, discussion of any item on the agenda should be held in a closed meeting, the board will conduct a closed meeting in accordance with the Texas Open Meetings Act, Government Code, Chapter 551, Subchapters D and E or Texas Government Code section 418.183(f). Before any closed meeting is convened, the presiding officer will publicly identify the section or sections of the Act authorizing the closed meeting. All final votes, actions, or decisions will be taken in open meeting. [See BEC(LEGAL)]

The notice for this meeting was posted in compliance with the Texas Open Meeting Act on:



Friday, October 30, 2015
at 9:08 a.m.

For the Board of Trustees



**Troup ISD
Board of Trustees
Special Meeting
November 3, 2015**

The Troup Independent School District Board of Trustees met in Special Session on Tuesday, November 3, 2015 at 6:00 p.m. in the Board Room of the Administration Building, 201 N. Carolina Street, Troup, TX. The meeting was called to order at 6:00 p.m. and presided over by President Andy M. Griffin, Jr.

Following the Pledge of Allegiance, Andy M. Griffin, Jr. opened the meeting with prayer.

Members Present: President Andy M. Griffin, Jr.; Secretary Melissa Young; Members Shane Jasper and Robbie Switzer. Vice President Gene Whitsell and Member John Whitsell were not present.

At 6:19 p.m. the board convened in Closed/Executive Session.

At 7:39 p.m. the board reconvened in Open Session.

Under Agenda Item #6:

There was no action on the contract of Athletic Director Dennis Alexander.

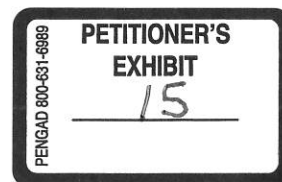
Under Agenda Item #7:

At 7:40 p.m. Shane Jasper made a motion to adjourn the meeting. Robbie Switzer seconded the motion.

Motion carried 4-0.


Board President


Board Secretary



Notice of Special Meeting

The Board of Trustees Troup ISD

A Special Meeting of the Board of Trustees of Troup ISD will be held December 18, 2015, beginning at 11:30 AM in the Board Room, 201 N. Carolina, Troup.

If, during the course of the meeting, discussion of any item on the agenda should be held in a closed meeting, the Board will conduct a closed meeting in accordance with the Texas Open Meetings Act, Government Code, Chapter 551, Subchapters D and E. Before any closed meeting is convened, the presiding officer will publicly identify the section or sections of the Act authorizing the closed meeting. All final votes, actions, or decisions will be taken in open meeting.

The subjects to be discussed or considered or upon which any formal action may be taken are listed below. Items do not have to be taken in the same order as shown on this meeting notice.

1. Call the meeting to order
2. Pledge of Allegiance
3. Prayer
4. Members Present
5. Discussion and Possible Action on Contract of Dennis Alexander, Athletic Director
6. Executive Session
Consultation with Board's Attorney, 551.071; Discussion of Real Property, 551.072;
Personnel Matters, 551.074
7. Results of Executive Session
A. Possible Action on Executive Session Items
8. Adjourn

If, during the course of the meeting, discussion of any item on the agenda should be held in a closed meeting, the board will conduct a closed meeting in accordance with the Texas Open Meetings Act, Government Code, Chapter 551, Subchapters D and E or Texas Government Code section 418.183(f). Before any closed meeting is convened, the presiding officer will publicly identify the section or sections of the Act authorizing the closed meeting. All final votes, actions, or decisions will be taken in open meeting. [See BEC(LEGAL)]

The notice for this meeting was posted in compliance with the Texas Open Meeting Act on:


For the Board of Trustees

Tuesday, December 15, 2015
@ 10:21 a.m.



**Troup ISD
Board of Trustees
Special Meeting
December 18, 2015**

The Troup Independent School District Board of Trustees met in Special Session on Friday, December 18, 2015 at 11:30 a.m. in the Board Room of the Administration Building, 201 N. Carolina Street, Troup, TX. The meeting was called to order at 11:35 a.m. and presided over by President Andy M. Griffin, Jr.

Following the Pledge of Allegiance, Melissa Young opened the meeting with prayer.

Members Present: President Andy M. Griffin, Jr.; Secretary Melissa Young; Members Shane Jasper and Robbie Switzer. Vice President Gene Whitsell and Member John Whitsell were not present.

At 11:36 a.m. the board convened in Closed/Executive Session.

At 12:09 p.m. the board reconvened in Open Session.

Under Agenda Item #7:

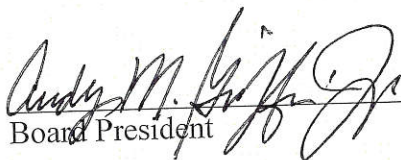
Shane Jasper moved to propose the termination of Dennis Alexander as Athletic Director/Head Football Coach and that he be provided notice of this proposed termination as soon as possible. Robbie Switzer seconded the motion.

Motion carried 4-0.

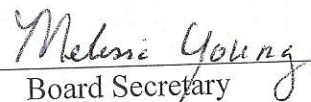
Under Agenda Item #8:

At 12:10 p.m. Melissa Young made a motion to adjourn the meeting. Shane Jasper seconded the motion.

Motion carried 4-0.



Board President



Board Secretary



NOTICE OF PROPOSED TERMINATION OF TERM CONTRACT

Date of Notice: December 18, 2015

Employee Name: Dennis Alexander

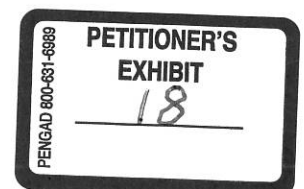
On December 18, 2015, the Board voted to propose termination of your employment contract with the Troup Independent School District. A letter addressed to you from Mr. Stuart Bird, Superintendent is attached to this notice setting forth the information required under the Texas Education Code as well as the Troup ISD Board Policies. The letter specifically sets forth the reasons constituting good cause for termination of your contract.

Please take note of the requirements for you to request a hearing on this proposed action. All board policies are available to you both online or by request to the district who will make a copy of any policies you request. All direct questions regarding the proposed termination of your contract should be directed to your Superintendent and to the district's legal counsel.

Signed and dated this 18th day of December, 2015.

TROUP INDEPENDENT SCHOOL DISTRICT
BOARD PRESIDENT


ANDY GRIFFIN



Troup Independent School District

Fax: 903-842-4563

P.O. Box 578

Troup, Texas 75789

Phone 903-842-3067

December 18, 2015

Mr. Dennis Alexander
c/o Ron Adkison, Attorney at Law
300 W. Main Street
Henderson, Texas 75652



Re: Proposed Termination of Contract
Dennis Alexander - Athletic Director/Head Football Coach

Dear Mr. Alexander:

This letter is written pursuant to the Texas Education Code and Troup ISD Board Policies. Our board policies state that before any contract employees can be dismissed for good cause, the employee shall be given reasonable notice in writing of the charges against him or her and an explanation of the district's evidence regarding the charges.

Presently you are on administrative leave/suspension from your duties at Troup Independent School District. Accordingly, this letter will serve as notice that you will remain on administrative leave/suspension, with pay, pending a hearing on your proposed termination per your discussions with Superintendent Stuart Bird. This letter will also serve as official notice that you are to turn over all school property in your possession at this time.

The basis for my recommendation that your contract be immediately terminated is a result of the investigation indicating inappropriate contact with a student as well as inappropriate language directed toward students, including racial slurs. I am making the recommendation to the Board of Trustees that your contract be terminated after a full and complete hearing held pursuant to board policy.

You have been given copies of the statements that have been gathered during the investigation through your attorney, Mr. Ron Adkison. The purpose of this letter is to set forth those specific items and the evidence that will be considered during any hearing.

It is anticipated that evidence will come from six witnesses. The witnesses will include:

1. Mr. Stuart Bird. Mr. Bird will testify concerning your inappropriate language during the football season together with your inappropriate contact with students. Mr. Bird will also testify concerning your contract with the district, expectations of you as an employee of the district as well as policies of the district. Further, Mr. Bird will testify that your conduct as an employee of the district was unacceptable and failed to meet the standards of Troup ISD.
2. Sam McMullen Hamilton, Athletic Trainer. Ms. Hamilton will testify regarding your use of inappropriate language directed to the students, your use of racial slurs directed at players, your inappropriate contact with both players and students, and particularly your physical striking of students.

High School
903-842-3065

Middle School
903-842-3081

Elementary School
903-842-3071

Troup Independent School District

Fax: 903-842-4563

P.O. Box 578

Troup, Texas 75789

Phone 903-842-3067

3. Colton Whitsell, student. Mr. Whitsell will testify that you struck him in the face on or about October 19, 2015. He will also testify that the slap to his face was offensive, embarrassing, and caused him physical pain as well as humiliation. Further, he will testify regarding your use of inappropriate language directed toward him and other players as well as employees of the district.
4. Blake Attaway, student. Mr. Attaway will testify that you struck him in the head which caused him physical pain as well as embarrassment and humiliation. He will further testify regarding your use of racial slurs and verbal abuse toward him and other players.
5. Mr. John Eastman, employee. Mr. Eastman will testify regarding your use of inappropriate language used toward students and staff.

The basis of my recommendation for proposed termination will be:

1. Inappropriate contact with students;
2. Behavior that presents a danger of physical harm to students;
3. Assault of a student;
4. Abuse of a student;
5. Use of profanity in the course of performing your duties of employment in the presence of students and staff as well as the public;
6. Failure to meet the district's standards of professional conduct;
7. Failure to maintain an effective working relationship and good rapport with the students, staff and community; and
8. Each of the above items standing alone and in conjunction with each other constitute good cause for the immediate termination of your contract.

If after receipt of this notification you desire to be heard and contest the recommended proposed action, you shall provide written notice within ten (10) days after receipt of this notice. You are also required to submit a written request to the administrator of education for the appointment of an independent hearing examiner and provide the board with a copy of the request not later than the 15th day after you receive this notice. If the Board is not notified of a hearing request within ten (10) days of receipt of this notice or if you fail to timely request an appointment of an independent hearing examiner, the Board will vote to terminate your contract.

Please direct any questions regarding the proposed termination of your contract to the Superintendent with a copy to the district's legal counsel, Mr. John C. Hardy, 2080 Three Lakes Parkway, Tyler, Texas 75703.

Sincerely,



Stuart Bird, Superintendent
Troup Independent School District

High School
903-842-3065

Middle School
903-842-3081

Elementary School
903-842-3071

Troup Independent School District
Coaching Staff Evaluation Form

Name: Sam

+ OUTSTANDING

- Rating:
- S Satisfactory Performance in this area**
Meets or Exceeds expectations
 - I In Need of Improvement**
Performance in this area raises a level of concern and improvement is needed
 - U Unsatisfactory**
Performance in this area is not acceptable and improvement is needed

Professional and Personal Relationships

1. + Unselfishly supports and promotes the TOTAL ATHLETIC program of the school
2. + Establishes rapport with all players without compromising team
3. + Establishes good rapport and a spirit of cooperation with administration, faculty and staff
4. + Establishes good rapport and spirit of cooperation with other members of the coaching staff
5. + Is candid, sincere, courteous, positive and cooperative in dealing with parents and patrons

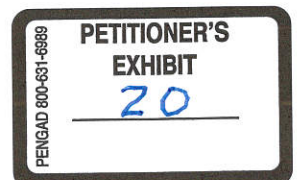
Coaching Performance

1. + Is an expert in all areas pertaining to their responsibilities in their sport
2. + Possesses the ability to relate knowledge of expertise in their sport
3. + Has the ability to perform under game conditions with class and poise at all times
4. + Develops and utilizes a well organized practice schedule that maximizes individual and team instruction opportunity (~~1000 reps~~)
5. + Develops game plans and strategies which are fundamentally sound, proactively planned, and imaginative

Coaching Related Responsibilities

1. + Dresses appropriately for practices and games
2. + Consistently exhibits suitable sideline conduct toward players
3. + Develops respect by example in matters of appearance, manners, behaviors, language, and conduct during competition
4. + Displays enthusiasm and exhibits an intensity for coaching
5. + Is willing to work and spend the necessary time needed to produce quality

6. —



Equipment, Supplies and Facilities

1. S Takes care of supplies and equipment and ensures that they are used properly
2. S Issues and collects equipment in an orderly and business-like manner while keeping accurate records.
3. S Regularly inspects equipment to ensure that it is in good repair and safe for use
4. S Takes good care of facilities
5. S Complies with established procedures related to the purchase of materials and services.

Organizational and Administrative Responsibilities

1. NA As a priority, the coach is a role model in their teaching field at school. This includes planning, organization, motivating students to learn, and striving to improve instructional delivery in order to prepare our students for success.
2. S Willing to assist in planning contests, special events, banquets, award ceremonies, etc.
3. + Is dependable and punctual in performing assigned responsibilities
4. S Prepares necessary forms and paperwork completely, accurately, neatly, and on time.
5. S Follows policies and procedures outlined in the athletic and school handbooks
6. S Understands and follows all district and UIL guidelines, rules and regulations pertaining to the athletic eligibility and ethical conduct of coaches

** LIMIT cell phone use DURING PRACTICE.*

Assignments 2013-14

Salary Adjustments for Assignments 2013-14

Goals for Coaching Career

Goals for Programs at Troup Independent School District

Needs for Your Program at Troup Independent School District (Head Coach only)

Dennis Alexander
Dennis Alexander, Athletic Director

4-10-13
Date

QUESTIONS :

*STUDENT ASST. - 2013
HELP SANITIZING GYM
PURCHASES 2013
CLINICS*

Printed Name

Signature

Date

*Jim, U are
very talented
a JO GREAT JOB.*

Troup Independent School District
Coaching Staff Evaluation Form

Name: Sam Mc Mullen Hamilton

+ OUTSTANDING

- Rating: **S Satisfactory Performance in this area**
Meets or Exceeds expectations
- I In Need of Improvement**
Performance in this area raises a level of concern and improvement is needed
- U Unsatisfactory**
Performance in this area is not acceptable and improvement is needed

Professional and Personal Relationships

1. S Unselfishly supports and promotes the TOTAL ATHLETIC program of the school
2. S Establishes rapport with all players without compromising team
3. S Establishes good rapport and a spirit of cooperation with administration, faculty and staff
4. S Establishes good rapport and spirit of cooperation with other members of the coaching staff
5. + Is candid, sincere, courteous, positive and cooperative in dealing with parents and patrons

Coaching Performance

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2. S Possesses the ability to relate knowledge of expertise in their sport
3. I Has the ability to perform under game conditions with class and poise at all times
4. S Develops and utilizes a well organized practice schedule that maximizes individual and team instruction opportunity (1000 reps)
5. S Develops game plans and strategies which are fundamentally sound, proactively planned, and imaginative

Coaching Related Responsibilities

1. S Dresses appropriately for practices and games
2. S Consistently exhibits suitable sideline conduct toward players
3. S *BUT TRACK MEETS, FB PRACTICE, MORE PROFESSIONAL, INVOLVES NOT PARTY*
Develops respect by example in matters of appearance, manners, behaviors, language, and conduct during competition
4. S Displays enthusiasm and exhibits an intensity for coaching
5. S Is willing to work and spend the necessary time needed to produce quality

Equipment, Supplies and Facilities

1. S Takes care of supplies and equipment and ensures that they are used properly
2. S *Be Sure Insurance, Insurance, Parents*
Issues and collects equipment in an orderly and business-like manner while keeping accurate records.
3. S Regularly inspects equipment to ensure that it is in good repair and safe for use
4. S *Check Bandages, Vinyl, if need condor to do this for me know.*
Takes good care of facilities
5. S Complies with established procedures related to the purchase of materials and services.

Organizational and Administrative Responsibilities

1. S As a priority, the coach is a role model in their teaching field at school. This includes planning, organization, motivating students to learn, and striving to improve instructional delivery in order to prepare our students for success.
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(1) MORE PROFESSIONALISM FB practice, TRACK, NO PARTY ENVIRONMENT.

(2) STUDENT ASST. (HS) need to be more focused.

(3) FB PRACTICE WATER - GIVE IT OUT BUT PLEASE

Assignments 2014-15

Salary Adjustments for Assignments 2014-15 *HAVE GIRLS BE NOT VISITING DURING PRACTICE TIME.*

Goals for Coaching Career

(4) PLEASE KEEP CELL PHONE FOR IMPORTANT ISSUES DURING ATHLETIC TIMES.

Goals for Programs at Troup Independent School District

Needs for Your Program at Troup Independent School District (Head Coach only)

(5) HAVE ALL PAPER WORK AS DISCUSSED WITH MR. BIAO.

(6) GATORADE - each day summer workout. Where & cups

DA

Dennis Alexander, Athletic Director

5-30-14

Date

Printed Name

Signature

Date

Troup Independent School District
Coaching Staff Evaluation Form

Name: Sam Hamilton

- Rating: **+** **OUTSTANDING**
- S** **Satisfactory Performance in this area**
 Meets or Exceeds expectations
- I** **In Need of Improvement**
 Performance in this area raises a level of concern and improvement is needed
- U** **Unsatisfactory**
 Performance in this area is not acceptable and improvement is needed

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6. + Understands and follows all district and UIL guidelines, rules and regulations pertaining to the athletic eligibility and ethical conduct of coaches

Assignments 2013-14

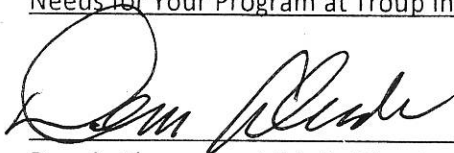
Salary Adjustments for Assignments 2014-15

Goals for Coaching Career

Goals for Programs at Troup Independent School District

Needs for Your Program at Troup Independent School District (Head Coach only)

*Keep up Good Work.
Sincerely
Love Y'all.
For your future & 1098-*



Dennis Alexander, Athletic Director

6-3-15

Date

Sam Hamilton

Printed Name



Signature

26 May 2015

Date